United States Court of Appeals

for the Second Circuit

EXHIBITS

76-4268

OFFICIAL REPORT OF PROCEEDINGS

BEFORE THE

National Labor Relations Board

DOCKET NO. 3-UC-104

IN THE MATTER OF: NIAGARA UNIVERSITY

Employer/Petitioner

and

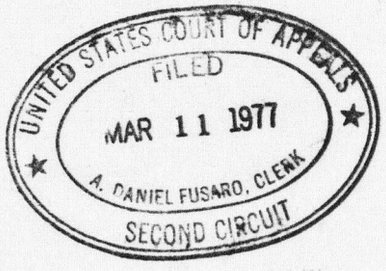
NIAGARA UNIVERSITY LAY TEACHERS ASSOCIATION

Union

B
p/s

PLACE: Buffalo, N.Y.

DATE: March 12, 1976



PAGES: 1-206

C. S. A. REPORTING CORPORATION

Official Reporters

300 Seventh Street, S.W. Washington, D. C. 20024

393-2320

OFFICIAL REPORT OF PROCEEDINGS

BEFORE THE

National Labor Relations Board

DOCKET NO. 3-UC-104

IN THE MATTER OF: NIAGARA UNIVERSITY
Employer/Petitioner

and

NIAGARA UNIVERSITY LAY TEACHERS ASSOCIATION
Union

PLACE: Buffalo, N.Y.

DATE: March 12, 1976

PAGES: 1-206

BEST COPY AVAILABLE

C. S. A. REPORTING CORPORATION
Official Reporters
300 Seventh Street, S.W. Washington, D. C. 20024
393-2320

B/mr/4

UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

Third Region

- -x

NIAGARA UNIVERSITY

Employer/Petitioner

and

Case No. 3-UC-104

NIAGARA UNIVERSITY LAY TEACHERS ASSOCIATION

Union

- -x

NLRB Hearing Room, Ninth Floor,
Federal Building,
111 West Huron Street,
Buffalo, New York,
Friday, March 12, 1976.

The above-entitled matter came on for hearing, pursuant to Notice, at 10:00 o'clock a.m.

BEFORE:

JOHN J. MATCHULAT, ESQ., Hearing Officer.

APPEARANCES:

JOSEPH L. RANDAZZO, ESQ., FLAHERTY, COHEN, GRANDE & RANDAZZO, PC, 1016 Liberty Bank Bldg., Buffalo, New York, 14202, Appearing on behalf of the Employer/Petitioner.

JAMES N. SCHMIT, ESQ., OHLIN, DAMON, MOREY, SAWYER & MOOT, 1800 Liberty Bank Bldg., Buffalo, New York, 14202, Appearing on behalf of the Respondent.

I N D E X

WITNESS:	DIRECT	CROSS	REDIRECT	RECROSS
Sister John Frances Gilman	17	39 49		
Father Joseph Lachowski	117	135 142	166	165
Sister Mary J. Minella	168	181 182		206

E X H I B I T S

Board's	IDENTIFIED	RECEIVED
1(a) through 1(d)		4
2	103	103
Joint Exhibits		
1	6	6
2	7	7
3	8	8
4	10	10
5, 6	116	116

PROCEEDINGS

(10:00 a.m.)

HEARING OFFICER MATCHULAT: On the record.

This is a formal hearing in the matter of Niagara University, case number 3-UC-104.

The Hearing Officer appearing for the National Labor Relations Board is John J. Matchulat.

All parties have been informed of the procedures at formal hearings before the Board by service of a Statement of Standard Procedures with the Notice of Hearing. I have additional copies of the statement for distribution if any of the parties wishes more.

Will Counsel please state their appearances for the record. For the Employer/Petitioner?

MR. RANDAZZO: For the Petitioner, Flaherty, Cohen, Grande and Randazzo, PC, by Joseph L. Randazzo, of Counsel, 1016 Liberty Bank Building, Buffalo, New York, 14202.

HEARING OFFICER: For the Union?

MR. SCHMIT: For the Respondent, Niagara University Lay Teachers Association; James N. Schmit S-C-H-M-I-T, of the firm of Ohlin, Damon, Morey, Sawyer and Moot, 1800 Liberty Bank Building, Buffalo, New York, 14202.

HEARING OFFICER: Any other appearances? Let the

record show no response.

I now propose to receive in evidence the formal papers. These have been marked for identification as Board's Exhibits 1(a) through 1(d) inclusive; Exhibit 1(d) being an index and description of the entire exhibit. The exhibit has been shown to the parties. Are there any objections?

MR. RANDAZZO: None.

MR. SCHMIT: None.

HEARING OFFICER: There being no objection, Board's Exhibits 1(a) through 1(d) are hereby received into the record.

(The document above-referred to, heretofore marked Board's Exhibits 1(a) through 1(d) for identification, were received in evidence.)

HEARING OFFICER: Are there any motions to intervene in these proceedings to be submitted to the Hearing Officer at this time? Let the record show no response.

(No response)

HEARING OFFICER: Mr. Randazzo, is the correct name of the Employer/Petitioner that which appears on the Petition in this case, being Niagara University?

MR. RANDAZZO: That's correct.

HEARING OFFICER: Mr. Schmit, is the correct name

of the Union in this matter, Niagara University Lay Teachers Association?

MR. SCHMIT: That's correct.

HEARING OFFICER: Is it possible at this time to stipulate that Niagara University Lay Teachers Association is a labor organization within the meaning of the National Labor Relations Act as amended. Do you so stipulate, Mr. Randazzo?

MR. RANDAZZO: Yes.

HEARING OFFICER: Mr. Schmit?

MR. SCHMIT: Yes.

HEARING OFFICER: The stipulation is received.

Pursuant to pre-hearing discussions with the parties and to place forthcoming stipulations into better perspective, at this time the Hearing Officer will propose several stipulations pertaining both to documents and matters involving the prior Representation case proceeding involving the same parties.

I would propose to stipulate the transcript and exhibits from a hearing conducted on September 19th, 1975 from a previous representation case involving the same parties in case number 3-RC-6410. Would you so stipulate these documents into evidence? Mr. Randazzo, on behalf of the Employer-Petitioner?

MR. RANDAZZO: Yes.

HEARING OFFICER: Mr. Schmit, on behalf of the Union?

MR. SCHMIT: Yes, and I understand that the stipulation also embraces exhibits that were introduced at that time.

HEARING OFFICER: That's correct. Now, may we -- off the record.

(Discussion off the record.)

HEARING OFFICER: Back on the record. The aforementioned documents will be stipulated and received into the record as Joint Exhibit #1.

(The documents above-referred to were marked Joint Exhibit 1 for identification and received in evidence.)

HEARING OFFICER: At this time, gentlemen, I would propose to stipulate in evidence another document entitled "Decision and Direction of Election" issued in case number 3-RC-6410, by the Regional Director of the Third Region on October 3rd, 1975. Is it possible to stipulate this document into the record as Joint Exhibit #2, Mr. Randazzo, on behalf of the Employer-Petitioner?

MR. RANDAZZO: Yes.

HEARING OFFICER: Mr. Schmit, on behalf of the Union?

MR. SCHMIT: Yes.

HEARING OFFICER: Joint Exhibit #2 is received.

(The document above-referred to was marked Joint Exhibit #2 for identification and received in evidence.)

HEARING OFFICER: I would further propose to stipulate that the Employer on or about October 15th, 1975, filed with the Board a request for review of the aforementioned Decision and Direction of Election. Would you so stipulate, Mr. Randazzo, on behalf of the Employer?

MR. RANDAZZO: Yes.

HEARING OFFICER: Mr. Schmit, on behalf of the Union?

MR. SCHMIT: Are we just stipulating that a request for review was in fact filed?

HEARING OFFICER: Yes.

MR. SCHMIT: I so agree.

HEARING OFFICER: May we go off the record?

(Discussion off the record.)

HEARING OFFICER: Back on the record. At this time, gentlemen, I would propose to stipulate into evidence a document, a telegram from the National Labor Relations Board which basically denied Employer's request for review, except to the unit placement of Father Lachowski and Sister Gilman. As to those two

individuals, the Decision and Direction of the Regional Director by telegram was amended to permit them to vote subject to challenge.

Do either of the parties object to the introduction of that telegram? Mr. Randazzo, on behalf of the Employer-Petitioner?

MR.RANDAZZO: No.

HEARING OFFICER: Mr. Schmit, on behalf of the Respondent Union?

MR. SCHMIT: I do not object. Perhaps you could identify the telegram by date or some other code number. As far as I know there is only one involved. Perhaps there is some other identifying dates and other number which could be part of the record so we know that the telegram is the one going into the record.

HEARING OFFICER: Off the record.

(Discussion off the record.)

HEARING OFFICER: Back on the record. As to the aforementioned telegram, the number identifying that telegram is 75123. There being no objection to the introduction of this telegram, it is hereby received in evidence as Joint Exhibit #3.

(The document above-referred to was marked Joint Exhibit #3 for identification and received in evidence.)

HEARING OFFICER: I would further propose to stipulate that an election was conducted in the unit described in the Decision and Direction of Election of the Regional Director, which election was conducted on December 17th, 1975. Would you so stipulate, Mr. Randazzo, on behalf of the Employer?

MR. RANDAZZO: Yes.

HEARING OFFICER: Mr. Schmit, on behalf of the Union?

MR. SCHMIT: Yes.

HEARING OFFICER: The stipulation is received.

MR. RANDAZZO: Date?

HEARING OFFICER: That was December 17th, 1975.

I further propose to stipulate that Father Lachowski, Sister Gilman and Sister Balthasar and Sister Minella voted subject to challenge by the Board Agent conducting the election. Mr. Randazzo, would you so stipulate on behalf of the Employer-Petitioner?

MR. RANDAZZO: Yes.

HEARING OFFICER: Mr. Schmit, on behalf of the Union?

MR. SCHMIT: Yes.

HEARING OFFICER: I further propose to stipulate that on December 29th, 1975, the Regional Director of the Third Region issued a Certification of Representa-

tive, in case number 3-RC-6410, and with that stipulation I would propose to enter into evidence a document which is entitled "Certification of Representative". That would be as Joint Exhibit #4. As to those combined stipulations, would you so stipulate, Mr. Randazzo, on behalf of the Employer-Petitioner?

MR. RANDAZZO: Yes.

HEARING OFFICER: Mr. Schmit, on behalf of the Union?

MR. SCHMIT: I would.

(The document above-referred to was marked Joint Exhibit #4 for identification and received in evidence.)

HEARING OFFICER: I further propose to stipulate that as to the commerce facts and employer status of Niagara University, that the parties continue to stipulate as to those facts and that status which is set forth both in the Decision and Direction of Election of the Regional Director and on pages 18 and 19 of Joint Exhibit 1.

MR. RANDAZZO: The commerce facts, we agree.

HEARING OFFICER: Mr. Schmit?

MR. SCHMIT: I also agree, and that it is an employer. I assume Mr. Randazzo also agrees with that part of the stipulation.

HEARING OFFICER: The stipulation is received.

Also, I propose to stipulate at this time that there is no current collective bargaining agreement between the Union and the Employer.

MR. SCHMIT: That's correct.

HEARING OFFICER: Mr. Randazzo?

MR. RANDAZZO: Right.

HEARING OFFICER: The stipulation is received.

I would further propose to stipulate that the numbers of full-time lay faculty and regular full-time religious faculty are approximately the same as that cited both in the Decision and Direction of Election in case number 3-RC-6410 and on pages 22 and 23 of the transcript, Joint Exhibit #1. Mr. Randazzo?

MR. RANDAZZO: Yes.

HEARING OFFICER: Mr. Schmit?

MR. SCHMIT: Yes, that they are substantially the same or approximately the same.

HEARING OFFICER: That was the substance of the stipulation.

MR. SCHMIT: Yes.

HEARING OFFICER: The stipulation is received.

Mr. Randazzo, I am now going to read the unit claimed by the Petitioner and ask you whether you wish to amend the unit at this time. The unit description in the Petition reads as follows: "Included all full-

time lay teaching faculty including department chairman employed by the Employer at its Niagara University, New York location. Excluded office clerical employees, religious faculty, part-time faculty, ROTC faculty, administrators, all other professional employees, guards and supervisors as defined in the Act.". And that Petitioner proposes to clarify the unit to include Sister John Frances Gilman; Sister Mary E. Balthasar; Sister Mary J. Minella; Reverend Joseph M. Lachowski.

MR. RANDAZZO: That's correct.

HEARING OFFICER: Mr. Schmit, what is your position as to the proposed clarification?

MR. SCHMIT: I oppose, on behalf of the Respondent, the proposed clarification. It is the Respondent's position that the unit for which it has been certified collective bargaining representative, is the correct and appropriate unit and the aforenamed individuals should be excluded as members of the Religious Community.

HEARING OFFICER: Mr. Randazzo, would you wish to comment as to the Employer's position as to the position of the four individuals?

MR. RANDAZZO: I believe you have stated it when you described the Petition and our position.

HEARING OFFICER: You don't wish to elaborate?

MR. RANDAZZO: No, I don't think it necessary.

HEARING OFFICER: Are there any other issues, prior to commencement of testimony, which the parties wish to take up at this time? Mr. Randazzo?

MR. RANDAZZO: Yes. I would move that the request for review and the memorandum in support thereof be also made a part of the record in this proceeding.

HEARING OFFICER: Mr. Schmit?

MR. SCHMIT: I oppose that request. The Employer's request for review in the prior representation proceeding is a self contained document which contains a brief in support of the Employer's position, which is argumentative and deals with issues presently before the Hearing Officer in this case, and I think it would be prejudicial and would serve no particular purpose.

HEARING OFFICER: I will overrule your motion, Mr. Randazzo.

MR. RANDAZZO: Let the record note an automatic exception.

HEARING OFFICER: You have your exception. Any other issues? Are there any other issues, gentlemen?

MR. RANDAZZO: I would also like to make a motion at this time that the record that is made in this proceeding be forwarded directly to the Board, in the

interest of expediting the matter, and second, in view of the fact that at least certain of the issues that we are dealing with in this proceeding have come about by virtue of the request for review and the decision of the Board; therefore, I make the motion that the Region transfer the record directly to the Board, in this matter.

HEARING OFFICER: Mr. Schmit?

MR. SCHMIT: I have no opposition to that motion.

HEARING OFFICER: Gentlemen, the motion will be referred to the Regional Director and perhaps we could receive a ruling on it in the near future. If so, I will certainly inform you.

MR. SCHMIT: I would, at this time, if it is appropriate, just like to briefly state to the record a motion to dismiss the Petition in this case. This is a petition for clarification of the bargaining unit. Ordinarily such a petition is appropriate to determine disputed classifications where the classifications were either non-existent or inaccurate before the existence of certification. I submit that is not the case in connection with the four individuals named. I do not believe a clarification petition is appropriate to the unit description where the unit description and certification is clear and the motion really amounts

to a request for reconsideration of the bargaining unit itself. The original petition by the labor organization in this case as well as the certification, which is JointExhibit #4, specified the exclusion of religious faculty, without any differentiation with respect to the Orders they may belong to. I think that is clear in the certification and I would move to dismiss the petition for clarification.

HEARING OFFICER: Mr. Randazzo?

MR. RANDAZZO: Very briefly, the Petitioner opposes the motion to dismiss. I think we are dealing with more than a question of whether the description of the unit is clear on its face, which I believe is what counsel is talking about. The fact is that the Board itself has, in the face of a question concerning representation, to the inclusion or exclusion of certain individuals in the unit, has failed to address itself to those issues. Now that the unit is certified, the unit clarification petition is very appropriate in this sort of a situation. For those reasons we oppose the motion.

HEARING OFFICER: The motion to dismiss by the Union in this matter, will be referred to the Regional Director or to the Board for ruling, whichever body rules in this matter, and that is where that particular

motion will be decided.

Any other matters, prior to commencement of testimony?

MR. RANDAZZO: I have nothing else.

MR. SCHMIT: I have nothing else.

HEARING OFFICER: Mr. Randazzo, do you have any witnesses to present at this time?

MR. RANDAZZO: I am prepared to examine witnesses. I have not brought any witnesses with me. It has been my understanding in discussions with yourself as Hearing Officer in this case, that the individuals involved have been subpoenaed by the Board, and so, I suppose, to that extent, I don't have any witnesses.

HEARING OFFICER: That's correct. Mr. --

MR. RANDAZZO: May I ask you if you have any witnesses?

HEARING OFFICER: Yes, I have subpoenaed several witnesses, but I was just giving you one last chance, to ask the Petitioner if they had any witnesses to come forward.

At this time the Hearing Officer calls Sister John Frances Gilman to the stand, please.

Whereupon,

SISTER JOHN FRANCES GILMAN

was called as a witness by and on behalf of the Board, and, having been first duly sworn, was examined and testified as follows:

EXAMINATION

Q. (By the Hearing Officer) Please, have a seat, and give your name and address to the reporter.

A. My name is Sister John, J-O-H-N, Frances, F-R-A-N-C-E-S, Gilman, G-I-L-M-A-N. I reside in Buffalo, New York, at 2157 Main Street.

Q. That is fine. Sister Gilman, do you presently work at Niagara University?

A. I do.

Q. What is your position at Niagara University?

A. Associate Professor of Mathematics.

Q. How long have you been at Niagara University?

A. Since September, 1973.

Q. And have you been in your present position at all times since 1973?

A. Yes.

Q. And how many hours -- do you teach courses?

A. Yes.

Q. How many hours do you teach?

A. Usually, the load of about fourteen hours. In

this present semester I am also doing a special task for the University, so I have reduced hours, to four hours this semester.

Q. Is your normal semester load, the normal hours; is the normal fourteen?

A. Yes, approximately.

Q. What Religious Community are you a member?

A. Daughters of Charity.

Q. Are the Daughters of Charity in anyway related to the Order of Vincentians?

A. Yes, in the same way that you and I are related to the President of the United States.

Q. Could you be a little more specific as to the relationship?

A. Okay. We are an International Community in most places throughout the world and we are divided into Provinces throughout the world. I have a Local Superior, a Provincial Superior in the Daughters of Charity. I have an International Superior who is the Daughters of Charity and also another International Superior who is a Vincentian. He is the International Superior of the Vincentians.

Q. Sister Gilman, were you assigned or were you hired by Niagara University?

A. (No response)

Q. Were you assigned to Niagara University or were you hired by Niagara University?

A. The order in which the events occurred was, I was offered a contract by Niagara University, personally, and then I was officially assigned by my Community in the sense they are saying, "Yes, you may accept that offer.".

Q. Did you make any application to Niagara University before the job was offered to you?

A. Well, I'm not exactly sure what you're really saying. I came up for interviews, as I did the other universities throughout the Northeastern part of the United States; interviews in order to see if there'd be possible openings and when an opening occurred at some of the places, I was offered jobs and I then took the offer that I had at Niagara University.

Q. When you came to Niagara University would someone from the Daughters of Charity or some other religious community have to be notified of your coming to the university to teach?

A. Well, I am not really, not sure of what you are saying. If you were married and you decided you would, you were thinking of taking a job in Oshkosh, you probably would notify your wife.

MR. SCHMIT: I am going to object to that answer.

I think it can be a far more specific reply.

Q. (By the Hearing Officer) I'll try to elicit more specific information.

A. In a similar way, when I had accepted, when I was offered the job, then I consulted with my people.

Q. Who did you consult with?

A. Sister Mary Basil.

Q. Who is Sister Mary Basil?

A. That is my Religious Superior.

Q. Who does Sister Mary Basil report to, if she reports to anyone?

A. On that particular item she would report to nobody but herself. On major items she would report to the Parish, the Daughters of Charity.

Q. Now, prior to the commencement of your teaching at Niagara University, I believe you mentioned you signed a contract.

A. Would you repeat the question?

Q. All right. Just before you started teaching at Niagara University did you sign a teaching contract with the university?

A. I did.

Q. Do you know the duration of the contract, the first one you signed?

A. I believe they are for one year.

Q. Have you since signed similar contracts?
A. I have.
Q. Sister Gilman, as a member of the Daughters of Charity Community, have you taken vows or made promises or other commitments to the Daughters of Charity or any other religious community?
A. I have taken vows.
Q. What type of vows are these?
A. They are what is, in Canon Law, referred to as simple and private, and I take them for one year only.
Q. And when have you last taken those vows?
A. We take our vows annually in March, the 25th -- March 25th, 1975.
Q. Now, would you please describe, if you would, please, the vows and their meaning, that you take? Which vows do you take and what is the significance of them?
A. You want a long dissertation? What do you want?
Q. One by one, if there is more than --
A. I take four vows; poverty, chastity, obedience and charity, being of service to the poor. They are simple vows. They are private vows. I make them myself to God. They are not accepted by any person except God. However, vows have to be functioned through people, so my Superiors are the ones who would,

if they chose to, make me act under the force of those vows.

MR. SCHMIT: Under what?

THE WITNESS: Force of those vows. I have never, in my 23 some years, ever been asked to act by virtue of the vows that I have taken, nor do I know of any Sister in my years of experience in my Community who has ever been asked to act by virtue of those vows. What else do you want?

Q. (By the Hearing Officer) I'd like to know, do any of these vows that you take, relate to conformance of rules or directives of the Vincentian Community?

A. No. Vincentians? I'm not a Vincentian. I'm a Daughter of Charity. All right. That is a separate community. If I were a religious of the Sacred Heart, and this is pertinent, and if I were in another community, and I would go to the closest one, and I know, by Canon Law, if I belonged to this community, there would be a cardinal in Rome who would be assigned, as, in a sense, a co-superior, Major General, universal Superior, all right, so that the Superioress of the Religious of the Sacred Heart which also is world-wide, would have the Cardinal in Rome make sure, a watchdog, if you want, would make sure that the lady that ran the show, were keeping everything precisely as Canon Law would require,

since they are not Canon lawyers. And that in the case of the Daughters of Charity Rome has assigned that task, instead of the Cardinal, to the Superior of the Vincentians. So, it is not that I am connected with the Vincentians as a group. I don't even know what their rules are, but a particular Vincentian is related to our group.

Q. With respect to your vow of poverty, Sister Gilman, are you permitted to own property?

A. Yes sir. If I had any. I am permitted. You asked the question; am I permitted?

Q. That's correct.

A. The answer is "Yes".

Q. Who permits you? You have to clear -- if you wanted to own something, would you have to clear with someone?

A. The Constitution states that I automatically have the right to own property, and I have the right, to, if I had it, to keep up my property.

Q. You refer to the constitution.

A. Rules. We use the word, "rules".

Q. The Daughters of Charity?

A. Daughters of Charity.

Q. Can you use property without permission?

A. An implicit permission from that. Okay. I can

only use a small thing and ordinary things, I get either implicit or explicit permission to use property.

Q. Who would be the one to give explicit permission?

A. Sister Mary Basil. We get it through Albany, which is where our Provincial comes from.

Q. With respect to compensation, Sister Gilman; do you receive a salary check from the university?

A. I do.

Q. How often do you receive a salary check from the university?

A. Once a month.

Q. And when you receive your check, have you noticed any deductions? First, do you receive a stub with the check?

A. Yes sir.

Q. Are there any deductions on that check stub?

A. Blue Cross-Blue Shield. That is the only one on mine, to answer your question.

Q. Pardon me. I may be very far afield, but are there any Social Security deductions at all on the check?

A. The United States of America, present law is that a Religious Community may or may not choose to take out Social Security. However, with the stipulation that if they chose to take out the Social Security,

and I don't know the dates of the law, it is within ten years, I believe, something like that, if they chose to take out Social Security, they may only do it if they take out for all the members of the Religious Community; I'm not sure whether it's for one division, or throughout the United States. At the present moment, the Province I belong to has not decided to do this in bulk.

Q. So, there are no Social Security deductions?

A. There are no Social Security deductions.

Q. Which Province is that, Sister? Albany Province?

A. You want me to tell -- the Daughters of Charity, Northeast Province, Inc.

Q. Northeast Province, Inc?

A. I-N-C.

Q. Now, you said that there were deductions for health insurance.

A. Yes.

Q. Do you know what type of health insurance plan you come under?

A. I think Mr. Higman, over there, could describe it better than I. He negotiated for all of that and when we were doing this, I got in on the extension plan that he initiated. I believe that's correct. I don't want to be unfaithful; true to him.

Q. Is the planthat you have, Sister Gilman, is that through or funded by the university or is this a plan which is an outgrowth of the faculty itself, lay faculty?

A. The same plan that every single member of the lay faculty -- I would prefer to use "the faculty" if you don't object. I consider myself faculty. The same plan we all have. But then, this is an additional plan that was instituted, initiated by the faculty. I am not exactly sure of all the legal university patterns. I understand it was initiated through Mr. Higman and the people in the senate and that we were allowed to accept or reject the extra. So, the university, as I understand, pays a good part, and we pay the extras. If I am wrong, I stand corrected.

Q. Do you know for a fact, which plan you have?

A. I don't know the number. I have it in my purse, if you would like me to go find it.

Q. If you would, please.

A. Group number 017537.

Q. Is there any indication of the number of the plan; 46, 47 or 50-51 on your plan?

A. Blue Cross is class 04. Blue Shield is class 50.

Q. Okay. Have you perused both sides of the card for any further elaboration on the type of plan it is?

A. There is nothing more.

Q. Thank you. Other than the health insurance deductions, Sister Mary --

A. I am not Mary.

Q. Sister Gilman. I'm sorry. Are there any other deductions at all that you have noticed on your check stub?

A. There are none.

Q. When you receive your check, Sister Gilman, do the Daughters of Charity have any requirement as to what you are to do with that money or that check?

A. I would like to object to that, if it was in order.

MR. RANDAZZO: I was going to register an objection on the basis that the same question, put to a layman, would certainly be inappropriate, and I am going to object to the same question being directed to this particular witness, merely because of the fact that she is a member of a Religious Order.

HEARING OFFICER: Your objection is overruled.

Q. (By the Hearing Officer) Please respond to the question.

A. What is the question, please?

Q. Is there any requirement or any obligation or any type of a relation between the, by the Daughters of Charityas to what you do with your check, once you

receive it?

A. I am trying to figure out of there is anything written.

MR. RANDAZZO: If I might, and I am not going to make this on the basis of an objection; you have used the word "obligation" and I would prefer to have the questions asked, what if anything does the witness do with her check and why.

MR. SCHMIT: I want to be heard on that.

HEARING OFFICER: Mr. Schmit?

MR. SCHMIT: I would appreciate an answer to the question asked, which then could be followed up by the question that Mr. Randazzo proposes, if not by the Hearing Officer, by myself or Mr. Randazzo.

HEARING OFFICER: Mr. Randazzo, I will request the witness to respond to the question as I placed it. If you wish to further elaborate or refine the responses, when your opportunity arises, you will certainly be given that opportunity.

Q. (By the Hearing Officer) Sister Gilman?

A. All right. I will answer the question to the best of my ability. Okay. I would say that the money that I received from Niagara University is not money that I have inherited from family and friends. Because of that, I signed the check with my own name, and I give

the check to my Local Superior so that she can then, in turn, use this, that I can use the monies, then, to whatever I need.

Q. And who is your Local Superior?

A. Sister Geraldine Coleman.

Q. Is she at Niagara University?

A. She resides at 2175 Main Street, Buffalo. She is at Buffalo.

Q. And is she a member of the Daughters of Charity Northeast Province?

A. Yes, she is, sir.

Q. And, I am not quite clear and maybe you can help me on this; after you submit your check to this individual, are you then given any monies in return or anything for yourself or any personal allowance?

A. Whatever I need.

Q. Well, would you please elaborate on how you would -- let's say you need some money for some purpose; how would you go about obtaining it?

A. I would say I needed some money for this purpose and I would get it.

Q. Are you given any periodic personal --

A. I would like to make that clear, okay?

Q. That is what I am trying to do.

A. That I consider my situation, precisely, okay, as

any lay persons.

MR. SCHMIT: I am going to object to that response. What the Sister's conclusions are to be drawn from the situation, are totally inappropriate.

HEARING OFFICER: Sustained.

MR.RANDAZZO: I'd like to be heard, if I might. That is precisely what we are doing in this area. This is not an adversary proceeding and the witness should be given an opportunity to explain matters in that area, and I strongly object.

HEARING OFFICER: I am trying to elicit that which is fact, not conclusions, Mr. Randazzo.

MR. RANDAZZO: I suppose Counsel will have an opportunity to ask her questions if her conclusions are not well-founded, in his opinion.

MR. SCHMIT: I would like to be heard for a moment further in connection with that. What the Sister is beginning to address herself to are exactly the issues to be determined in this proceeding. I don't believe it is appropriate, even in this kind of proceeding, to elicit opinions of the witness as to the ultimate facts at issue before the Hearing Officer. I think she should respond to the factual questions as put by the Hearing Officer, and confine herself to that.

Q. (By the Hearing Officer) Sister Gilman, are you given a personal monthly allowance, or for any other period?

A. No, I am not, sir. If I have needs, my needs are taken care of.

Q. Are you provided with food and shelter and clothing?

A. Yes, and I earn my money in order to be provided with food, shelter and clothing.

Q. So, do you provide these things for yourself or does, do the Daughters of Charity have any participation in these, providing these items?

A. I find it very difficult to work under the constraint under which Mr. Schmit is trying to force you to put me.

MR. SCHMIT: I am not going to force anybody to be put under any constraint. I made an objection to the Hearing Officer. It is he who decides something.

MR. RANDAZZO: I think it is improper for counsel to be arguing with the witness in this fashion.

HEARING OFFICER: I agree.

MR. RANDAZZO: If he wishes to raise an objection, he can raise it to you.

MR. SCHMIT: All right. I want to raise an objection to that. I don't believe the witness is

appropriately responding. She is criticizing my objection, or whatever. I don't think it is an appropriate response.

HEARING OFFICER: All right. Here is the way I am going. Don't concern yourself, Sister Gilman, with Mr. Schmit. Just try, to the best of your ability, to answer my questions.

THE WITNESS: If I would put myself in the classroom, it probably would be very easy. Actually, you have to understand, I am a mathematician, okay. I'm also a teacher and my whole life has been in that direction. When I answer, I will answer the way I am used to answering these kinds of things, and I'm not trying to be anything different from what I am. I have had discussions, interestingly enough, relative to the basic comparisons, and it seems to me to be most clear; there is a whole realm of Canon Law which you don't really understand, and I mean, comparisons seem to be helpful.

Q. (By the Hearing Officer) Fine. But I believe you will have an opportunity to probably draw comparisons through questions of both Counsel if this comes about. All I am asking you now, try to, just when I ask you a question, try to answer as brief as possible on the basis of your own situation.

A. Yes sir.

Q. Would you please tell us, in respect to the food, shelter and clothing; how this is provided and by whom?

A. All right. I earn a salary. I contribute my salary to the House where I live. This salary and other people's salaries are put together as -- we shant make comparisons. Excuse me -- they are put together. We have to pay for our food as everybody does, pay our rent, buy our clothing.

Q. When you say "we", you mean --

A. The people, the Sisters that I live with.

Q. Is this money all pooled or do you mean that you, yourself, pay part of the rent, a part of the food?

A. I suppose the best way to describe it would be, figuratively, put it in the kitty. We pool it and then we take out what we need.

Q. And the residence which you gave before, Sister Gilman, that was not the Niagara University campus?

A. No, it happens to be Sisters Hospital in Buffalo and we rent some space. We, the Sisters, the Daughters of Charity who live there, rent some space from the hospital. We pay square footage, I believe, and we, you know, have a contract for food and the usual kinds of things.

Q. Do you participate in the retirement plan at

Niagara University?

A. I don't know the answer to that.

Q. Since you have been at Niagara University, Sister Gilman, have you been ill or disabled for any lengthy period of time?

A. No.

Q. Are you required to fill out time sheets for the course loads that you are teaching at Niagara University?

A. I don't know what you mean.

Q. Do you have to report; is there any document that you have to submit to the university, weekly or daily or monthly as to the amount of time you spent teaching or what you are doing with your time?

A. No professor does it that I know of. If you are talking, like a little, putting a card in a clock or punching a clock.

Q. No, a report as to how much time you spent on a particular project, how much time you spent teaching a particular day, a week, a month?

A. I am assigned to teach. If something happens, unannounced, I would call the university, as is the policy, and would let them know, somehow, I'd let my chairman know, Mr. Higman, and my Academic Vice President, that I was ill, if that occurs. If there

was something that I would know in advance I couldn't be there, that I'd want to try to not be there, I would have to arrange in advance with the Academic Vice President and with my chairman. I would have to get their acceptance. My own particular procedure in that is to usually put in writing, and get their okay, and present copies to them.

Q. Could you be reassigned to another position at a place other than Niagara University?

A. What do you mean; be reassigned?

Q. Could someone in the Daughters, could your Order or Province assign you to another position at another place?

A. They could ask me if I would be interested in going some other place. They would ask me. They would say, then, "When is your contract up at Niagara University?". They would discuss the matter with me. I would say what I would like and what I wouldn't like and we would discuss it and we'd come to some conclusion and I might be reassigned, if I chose, could be reassigned to some other place.

Q. Could they force you to be reassigned at some other place?

A. People don't force me.

Q. Would someone have the authority to tell you where

your next assignment would be?
A. I freely choose. This may be going back to the question, going a long time back; what does the vow of obedience mean. I choose, if I am asked, I choose to accept what I may be asked. All right. Very very simply, I would choose; okay, if I wished to choose to do this, I would. If I was asked, would I consider another assignment, I would be certain that I had fulfilled all my obligations, legal obligations with Niagara University, and I might choose to accept this other assignment.
Q. But, could your Order or the Daughters of Charity tell you where your next assignment would be, even, and would you go even if you didn't want the assignment?
A. This is something that you probably cannot understand about me, because you don't know me well enough.
Q. I am asking about the authority of your Superiors with respect to your prospective assignments in the future; I am not asking about your personality. I am asking about the authority of your Superiors.
A. Any vows, marriage vow or religious vow, a person freely takes, and he takes, when he takes his marriage or religious vow, he freely chooses to fulfill it. So, in either of these vows there would be occasions

when one would have to come to an agreement with another, okay, and in that sense, then, yes, you would agree with the other what you would do. In that sense, then, if they asked me, would you go this other place, I would say, "Yes", and only if I have completed any legal obligations with Niagara University.

Q. Thank you.

MR. SCHMIT: Mr. Hearing Officer, could we have an answer to the question asked?

MR. RANDAZZO: I believe the witness did answer the question.

HEARING OFFICER: I believe the witness did, too.

MR. SCHMIT: I believe the question was asked three or four times, and asked three or four times whether or not they did have the authority and the Sister is answering whether she chose. I believe that was the question.

HEARING OFFICER: I believe she answered the question as to obedience.

Q. (By the Hearing Officer) Could you be dismissed from your position at Niagara University?

A. By the university.

Q. No, could you be dismissed?

A. I answered; by the university.

Q. By the university? Who in the university?

A. Well, let's see. I have had that recently. This is a procedure by which I could be dismissed. But, I think, ultimately, the dismissal would be through the president of the university. But, it would be -- I guess it could be initiated at any level. John could initiate it, because he doesn't like my fussing at him -- John Moore doesn't like my fussing at his cigar smoke.

Q. Who is John Moore?

A. He is the gentleman back there. Anybody who didn't like something I did, I suppose theoretically, could initiate the proceeding, but they'd have to prove that I was not keeping my contract; incompetence, violating the contract, and go through hearings.

Q. Sister Gilman, if there was something of that nature, if there was evidence of something of that nature --

A. Yes.

Q. And, who would have ultimate authority to remove you?

A. The president.

Q. Would the president have to --

A. I think that is right. Excuse me.

Q. To your knowledge?

A. To the best of my knowledge, it would be the

president.

Q. To your knowledge, would the university president have to consult with any persons in any Religious Community as to your removal?

A. No, sir.

Q. To your knowledge?

A. No. To my knowledge, that is true.

HEARING OFFICER: That is all the questions I have, at this time. Mr. Randazzo, do you have any questions, or Mr. Schmit?

MR. RANDAZZO: Would you rather go first?

MR. SCHMIT: No, I'd rather go last.

HEARING OFFICER: Mr. Randazzo?

MR. RANDAZZO: If that is the case, I'll go first.

HEARING OFFICER: Off the record.

(Discussion off the record.)

HEARING OFFICER: Back on the record. We'll take a short recess at this time.

(Brief recess taken.)

HEARING OFFICER: Back on the record. Are you ready to proceed? Mr. Randazzo.

CROSS EXAMINATION

Q. (By Mr. Randazzo) Sister, how long have you been a member of the Religious Order?

A. Since 1952.

Q. Now, you have mentioned Superiors. The immediate Superior would be located where?

A. My immediate Superior is in Sisters Hospital, Buffalo.

Q. In Sisters Hospital in Buffalo?

A. Yes.

Q. Does she have any involvement or connection at all with Niagara University?

A. None whatsoever.

Q. And the Superior above her would be located in Albany?

A. In Albany, New York.

Q. I take it that individual would not have any connection with Niagara University, either?

A. No.

Q. She would not?

A. No, she would not.

Q. Now, you have been questioned about the application of the vows of obedience, and I'd like to ask you whether the vows of obedience, in what matters they pertain to?

A. All right, they pertain --

Q. Generally.

A. They generally -- they pertain, in general to my religious and community life, and I guess, maybe the

simplist way you can say it is that --

Q. No.

A. All right.

Q. Would the vows of obedience, for instance, have anything to do with the way you would vote in an election, as an example?

A. They would not.

MR. SCHMIT: What kind of election?

Q. (By Mr. Randazzo) Any kind of election; national election, union election, any kind of election.

A. Any election, no, absolutely nothing to do with it.

Q. Are you a member of any professional organizations?

A. I am.

Q. Does the Order -- is the vow of obedience at all concerned with your decision to participate in those organizations?

A. No.

Q. Teaching functions, the functions and the duties to have as an instructor or teacher, is your Superior involved in every decision you make as a teacher, for instance?

A. No, the only way my Superior would be involved with that, when I got a contract offered, they say "Yes, that is the way you may earn your living.". After that, I know how to teach mathematics, okay; it just

happens that there isn't anybody else that I know of in this Province that knows mathematics as well as I do. It is not very weird; just happens that there aren't other professional mathematicians at the level that I am. So, even if somebody wanted to, facetiously try to tell me how to teach mathematics, I would pay them no mind, even if they tried. But, they have no right, even though they might know more than I did about it.

Q. Would the vow of obedience have anything whatsoever to do, and you are familiar with labor unions?

A. A little, getting familiar.

Q. Would the vow of obedience have anything to do with your decision, oneway or another, to participate or not participate in the activities of a labor organization?

A. No. Once I am working at Niagara University, all right, then I make my own decisions about what I believe I ought to do professionally or not.

Q. And the vow of obedience would not be concerned with that type of an activity?

A. No.

Q. I take it that there are, there is a Faculty Senate and Faculty Committee at Niagara?

A. Right.

Q. Is there any difference between the participation in those activities of the committee and senate, with the Religious as against lay; is there any difference?

A. Not that I am aware of. There are no statutory limits for those, nothing in the statutes or by-laws for all those senate and committees and all that.

Q. N w, you were asked about termination and mentioned there was a procedure for termination of faculty members.

A. Yes.

Q. In the event that, taking the situation, in the event that you were terminated for incompetency, for instance?

A. Yes.

Q. Would your Superior or any of your Superiors, no matter where located, would they have to approve such an act by the university?

A. No, the university said "You were out", and I am out. They might be very upset with me for being incompetent, however, but --

Q. Now, to the best of your knowledge, do you see any conflict imposed between your religious obligations on the one hand, talking, now, about the vows that you have undertaken, and your professional pursuits, on the other hand?

A. I see none.

MR. SCHMIT: I'm going to object to that question, as again, being directed to precisely the question that I think was presented to the Board to determine. I think it is inappropriate inquiry with respect to the witness' opinion.

MR. RANDAZZO: I believe that it is appropriate, Mr. Hearing Officer.

HEARING OFFICER: The question, as it relates to her vows and her vows, I think, are certainly significant in this matter; I think it is an appropriate question and I am going to allow the question to be asked.

Q. (By Mr. Randazzo) Now, you have mentioned to some extent what your Order, the Community that you belong to, what your Order does with the monies that are received, individuals like yourself.

A. Yes.

Q. Can you state whether or not the Order -- can you state whether or not you individually have an interest in wages and economics?

A. The Order would have a very special interest in wages and economics. I personally would have a very special interest in wages and economics. The reason is that I am obliged to earn my living. The Daughters

of Charity, since their inception in the 1600's, have always earned their living and they often had to supplement their living because they weren't paid enough, if they worked at a hospital, for example, and they would have a contract. I am talking about 16; 1630, 40, 50. They would have a contract at the hospital. Often they were not paid enough, and they would have to supplement their salary by making jams and jellies and selling them and things like that. We have always had the obligation to do this. However, one gets old eventually, and is unable to earn a living, and so, as in all families, the younger, able earning people support the older. Very interesting statistics in the United States, recently is reflected in our own community; that we have a lot of people who are over 65 years of age, nowadays, because they are getting to be a very large voting population and they have to be supported. Well, similarly, we have a very large number of people who are over 65, much larger proportion, actually, than the United States proportioned. Most of our Sisters who reached the age of 65, keep on trying to do something. They change their occupation because they may be past the age at which they can stay in their occupation. For example, if I get to be 65, I would probably be asked

to retire. I would be retired. I personally would not retire. I would find a second occupation. I would contribute in that way. But eventually I am not going to be able to support my share. I have to count on, when I am an old person, count on the support of all the Sisters who are able. Now, I want to answer your question very carefully. There are a very large number of older Sisters in our community and also some sick, not old, but some sick. They must be supported. My salary and the salaries of other Sisters go to help support them. It also goes to help educate Sisters who have not received their full education. Somebody helped to pay for my education and I will eventually help to pay for somebody else's.

Q. Do you engage in other kinds of employment?

A. Yes, occasionally.

Q. Occasionally, what types of activity?

A. I have done some consulting work. I have given workshops and I have given talks. Most of the talks you give are not paid, but on occasion talks have been honorarium.

Q. I was going to ask whether you are compensated for those activities?

A. Yes, I am. For example, when I worked for the Maryland State Department of Education, I worked two

years with them, I had, I guess it is tantamount to contract, not one with a whole lot of formal words; they agreed to pay me so much for so long a period. One day a week for a period of time I worked for them. I'd then fill out a form for the hours I spent, because it was one day a week bit. Sometimes half days, sometimes two days. What you referred to earlier, or the Hearing Officer referred to earlier; I had to fill out a form for travel and for time. I got a check. The check was issued by the Maryland State, the State of Maryland, and that check did not have any deductions on it.

Q. Now, you have mentioned an immediate Superior that is located in the hospital.

A. Yes.

Q. Where you reside; and the next one resides in Albany?

A. Yes.

Q. In terms of your day to day pursuits as an instructor at Niagara University and your professional activities, can you state the extent to which you talked to the Superior about these matters on a day to day or week to week basis or whatever?

A. Well, when one goes home at night, one sometimes chats on the funny things that happened, you know,

casual conversation.

Q. Sister, you testified about, not only the Daughters of Charity, but other Religious Orders, and I want to make sure that the record is clear and that also, that I understand. As I understand, all Religious Orders at some place, at some point in time, usually with a Cardinal, all come under the jurisdiction of somebody in Rome; is that correct?

A. For the Women's Religious Orders.

Q. Okay.

A. I don't know about the men.

Q. But, in your particular case, that particular responsibility was assigned to somebody in the United States?

A. No.

Q. Okay.

A. I was talking about Women's Religious Orders that are international, and that is the only area that I really know very much about.

Q. Okay.

A. And for Women's Religious Orders that are international, and I am not saying anything on the others, okay?

Q. Yes.

A. By inclusion, those have a cardinal protector,

one of the Cardinals -- that is not one Cardinal over every one, but different Cardinals over different ones, and that person would be in Rome, right, ordinarily.

Q. The vows that you mentioned that you take yearly; would that include the vow of obedience and vow of poverty, the two we have been talking about, also?

A. Yes.

MR. RANDAZZO: Jim, you can ask.

HEARING OFFICER: Mr. Schmit?

MR. SCHMIT: Thank you, Mr. Hearing Officer.

CROSS EXAMINATION

Q. (By Mr. Schmit) Sister Gilman, you testified that you last took your vows, March 25th, 1975; is that correct?

A. Yes, whenever Easter was, sometimes makes a date difference, but that is approximate.

Q. Will you be taking the vows again shortly?

A. Yes sir.

Q. Is there a date set for that?

A. March 25th.

Q. Will you be renewing those vows on that date?

A. That is my personal affair, sir.

MR. SCHMIT: I am going to ask for a ruling on that.

MR. RANDAZZO: You can register my objection.

I think it is completely immaterial. I strongly object.

MR. SCHMIT: Let me be heard on that. I think it is extremely material, whether or not Sister Gilman or any other religious that we are going to be hearing from in the next day or two, are subject to vows and will be subject to vows, is perfectly pertinent.

HEARING OFFICER: Let me ask you a question. Do you intend to take vows of any sort?

THE WITNESS: I think the question is in the order of who are you going to vote for in the next election.

HEARING OFFICER: That is not my question. Do you intend to take vows in March, the coming March; this month?

THE WITNESS: Yes.

Q. (By Mr. Schmit) Isn't that the same question I asked?

A. No. I do not believe so. Should I answer him or not?

HEARING OFFICER: No. I'll take care of that. Do you intend to take similar vows that you have taken in the past?

THE WITNESS: Yes sir.

HEARING OFFICER: I think that should suffice.

Q. (By Mr. Schmit) Then you do intend to renew your vows in the near future?

A. At the present moment I intend to take vows in the near future.

Q. These are the same vows that we have been discussing?

A. Yes sir.

Q. Sister Gilman, what if you decided not to take those vows again; would you still be a member of the Order?

A. Under certain circumstances, yes, and under other circumstances, no.

Q. Under what circumstances would you still be a member of the Order?

A. I could get a release for as long as a year, temporary release from the vows for as long as a year.

Q. And then, at the conclusion of that release period, would you then have to decide whether or not to renew them?

A. That's correct.

Q. And if, at the conclusion of that temporary release period, you decided not to renew your vows, then would you continue to be a member of the Order?

A. I would not.

Q. Could you describe for me, and perhaps this is

repetitious; what the relationship of the International Superior of the Congregation of the Mission, to the Order of the Daughters of Charity?

A. Would you ask the question again, please?

Q. I asked, if you'd describe for me the relationship between the International Superior of the Congregation of the Mission and the Order of the Daughters of Charity?

A. All right. The International Superior of the Congregation of the Mission is one of two International Superiors of the Daughters of Charity; the other being the Daughters of Charity. His role at that international level is the same as the role of a Cardinal protectorate over other international religious groups of women, to be sure that the Canon, to be sure the Canon Law is carried out, to be sure that the rules of the Congregation are carried out.

Q. Rules of which Congregation?

A. The Daughters of Charity. I presume he has another job, too. He has two jobs, that is. One man; two jobs.

Q. One of his jobs, that being his relationship to the Daughters of Charity, is to insure the rules of the Daughters of Charity are carried out?

A. That's correct.

Q. That's correct. Now, in that regard, would he not be a superior, then, to the Superior of the Daughters of Charity?

A. I don't really -- I have not -- I don't understand it. I think of them as equal superiors.

Q. I can see that you think of them as equal superiors, but do we in fact have such a thing, to your knowledge, or is it not a fact that the Superior of the Congregation of Missions is, on the international level, a Superior of the Superior of the Daughters of Charity?

A. He is a Superior of one of the two Superiors of the Daughters of Charity, but the relationship of Superior rests, if you want to use that to distinguish, and the Superiors are as equals.

Q. That is your --

A. As I understand it.

Q. As you understand it. So, he would be, in your understanding, a co-equal Superior of the Superior of the Order of the Daughters of Charity?

A. As I understand it.

Q. Do you know, of your own knowledge, whether the rule of the Order of the Daughters of Charity is the same as the rule of the Order of the Congregation of the Mission?

A. I have not seen the rule of the Order of the Congregation of the Missions; I cannot answer your question.

Q. Is the answer, that you do not know whether they are the same?

A. I will give you two answers. I do not have evidence that they are the same. I consider it highly, very, 99 and 44/100ths percent improbable that they are not.

Q. My question, do you know whether the rules of the two Orders are the same?

A. (No response)

HEARING OFFICER: Do you know?

THE WITNESS: In what sense, degree of knowing? I have never seen it.

HEARING OFFICER: Do you have actual knowledge?

THE WITNESS: No, I don't have actual knowledge.

Q. (By Mr. Schmit) When did you become a member of the faculty at Niagara University?

A. I already answered the question, sir. It was September, 1973. Well, that is when I started. Yes, that's right. September, 1973.

Q. Where had you been assigned by your Order prior to that, prior to September of 1973?

HEARING OFFICER: Excuse me, Mr. Schmit. I intend to overrule that question, unless that is going to be

tied up with the present situation.

MR. SCHMIT: Are you interposing your own objection?

HEARING OFFICER: Yes, I am.

MR. SCHMIT: I may well tie it up, and one of the things I am very much concerned with is how people come to be assigned in that Order.

HEARING OFFICER: Please answer the question.

THE WITNESS: Could you repeat it?

Q. (By Mr. Schmit) Where were you assigned prior to September to September, 1973?

A. Prior to 1973 I was employed at St. Joseph College, Emmitsburg, E-M-M-I-T-S-B-U-R-G, Maryland.

Q. Why did your employment there terminate?

A. Because the college closed.

Q. The college closed in the spring of 1973?

A. I am not sure of the legal date of closing, but classes ended --

Q. Sister Gilman, there is no need to fence with me. This was a perfectly straightforward question. Do you know when the college closed?

A. Spring of '73. Classes ended in the spring of '73.

Q. Thank you. Did there come a time in the spring of 1973 or thereafter that you became aware of a

faculty opening at Niagara University?

A. No. It was all prior to that. The announcement that the college would close was two years prior to the closing date, closing, actually ending of classes.

Q. Did there come a time when you became aware of an opening on the faculty of Niagara University?

A. But, you dated it in the spring of 1973.

Q. That is why I rephrased it.

A. Yes.

Q. When was that, Sister?

A. Sometime in -- it was after the time that Mr. Hargrave left, at the time Niagara University terminated with Mr. Hargrave; that was the time I learned there would be an opening. The date --

HEARING OFFICER: Put an approximate date on it.

THE WITNESS: I think it was -- well, yes. As a matter of fact I am sure it was like February, some place in February, March of 1973.

Q. (By Mr. Schmit) So I understand, is it your testimony that, to the best of your recollection, you first became aware of the faculty opening at Niagara University in February or March of 1973?

A. I am not trying -- I object, by the way, to the remark you made previously, but I would like to answer, but I am not sure that answering it in a larger

context may not be more to the point.

HEARING OFFICER: I believe the witness previously testified, Mr. Schmit, that she became aware of the position in February or March of 1973. I believe the question was already asked and answered.

Q. (By Mr. Schmit) This is your response?

A. Yes, there was previous background, but there was not a full-time opening, to my knowledge, prior to that time in the Niagara University Math Department.

Q. Did there come a time before February or March, 1973, when you became aware of an opening on the faculty at Niagara University?

A. There were some -- was offered some part-time in various parts of the university. I was much more interested in full-time employment in one area.

Q. When were you offered the part-time employment that you described?

A. I said I was offered. There was talk about the possibility. I was never given -- I would not consider it a firm offer. There was consideration. I was going to various universities in order to see -- first, I tried to see if there were openings at the time. Realizing that that approach was really not as effective as another approach, I then used a different approach. That was to take the time to go to different universi-

ties on my own time and money, in order to be interviewed by the people so that if full-time openings did occur, they would know me, they would know my qualifications; it would be more than just a piece of paper. Pieces of paper don't say much more than another piece of paper, usually. So, that in going to various universities in this way, I usually found out that there was not at this moment a full-time opening in to which you would fit. But if they came up, you know, we'd be in touch. In this way, I was contacted by some universities, and that is how I finally chose Niagara University.

Q. Did you initially contact with Niagara University as an applicant?

A. Yes.

Q. Do you recall when you made your first contact, by whatever means, with Niagara University?

A. My first contact?

Q. That's correct.

A. Sometime in the two year period of the announcement that St. Joseph's College would close, you know, sometime in 1972, I guess.

Q. Sometime between the spring of 1971 and the spring of 1973; would that be fair?

A. That would be fair.

Q. Most probably in 1972?

A. Yes.

Q. What was the nature of your first contact with Niagara University?

A. My own first contact was to come up and see people. All right?

Q. Did you submit any --

A. Oh, yes.

Q. -- letters of inquiry?

A. Yes.

Q. Prior to coming?

A. Yes.

Q. That would be prior to contact; is that correct?

A. I asked for applications for employment and that kind of thing, yes.

Q. Now, did the first letter inquire as to whether or not there was an opening, do you recall, or did you inquire for an application for employment or what have you?

A. I think, to the best of my knowledge, I already answered that, that my first approach was to find out if there were openings, and finding out that wasn't a good approach, then going back.

Q. Was your first approach to Niagara University, an inquiry as to whether or not there were openings?

A. I believe so.
Q. Would that have been in the form of a letter?
A. Well, yes, I would imagine so, yes, it would be. But, go ahead.
Q. Was it?
A. Yes. How else would I do it?
Q. Did you get a response to that letter?
A. I guess I did.
Q. Do you know whether or not you got a response to the letter?
A. At the moment, I don't recall.
Q. Do you recall as to whether, in response to this first letter of yours, were you ever advised that there was an opening in response to the first request?
A. I was never advised there was an opening at that time. There wasn't, as far as I understand.
Q. Were you ever, in fact, advised that there was no opening?
A. I didn't hear you.
Q. I said, were you ever in fact advised that there was no opening?
A. I thought I just said, I believe that is right. Somehow or other -- I really don't recall, okay, all that. There were many universities I was contacting, okay. Obviously, I had switched my role, because

where I hadn't gotten any responses from the resumes, so I was going in and contacting them personally and not by letter --

Q. The best of your recollection, there was not an opening at the time?

A. I would say so, yes.

Q. Thereafter, you made a further contact; is that your testimony?

A. That's correct.

Q. What was the nature of that further contact?

A. I used the same procedure with various colleges, wrote and asked, could I come to have an interview. Very possibly, you don't have an opening at this time, but it is possible you will have an opening in the future. So, if I can come, I would like to be able to come up on my own money, my own time, and have an interview.

Q. To your recollection, you addressed such an inquiry to Niagara University?

A. Yes.

Q. What was the response to that inquiry?

A. "Come on up".

Q. Would that, again, to the best of your recollection, be some time in 1972?

A. That would have been in December. I took time,

when we had some time off in November, and went to some of the universities in New York City and New Jersey area, that area. And in December, we got out -- in the South, you get out a little earlier -- I came up to this area, Niagara Frontier area for interviews in December 1972.

Q. And one of the places that you went was Niagara University, at that time?

A. That's correct.

Q. Did you in fact receive an interviewat that time?

A. I did.

Q. By whom were you interviewed?

A. I was interviewed by Father Slattery, the president and by John Moore, who was then the Chairman of the Mathematics Department.

Q. Anybody else?

A. I was interviewed by Fred Hayes, the title -- Computer Education; I don't know whether it is Director or what, I forget the exact title. I know the department. Maybe he is the Chairman, I am not sure.

Q. Were you advised in the course of those interviews whether or not there was an opening on the faculty of the Mathematics Department?

A. Yes. Mr. Moore made it very clear that he really would not like to have -- he was very very clear --

"Nothing personal about you, Sister, but we just don't want --"; I also found it very difficult to understand what he was saying, but he was very very careful to say, "Nothing personal about you.". Also it was very clear that he didn't really feel he had an opening right then.

Q. Now, after that -- well, if it is capable of summary, what was the result of those December, 1972 interviews?

A. May I go back and add a word that I didn't in the previous answer?

Q. No, I'd just as soon you'd answer this question.

HEARING OFFICER: I'll let the witness respond to that, Mr. Schmit. She is trying to get a full accounting of what her contact was in her interview with Mr. Moore.

THE WITNESS: Mr. Moore made it very clear that he did not have a full-time place, okay, and neither did they have a full-time place for me in Computer Education. But, it was probable that they could have used a part-time person in Mathematics, and it is certain they could have used -- I think it is; I may be wrong -- they could have used a part-time person in Computer Education.

Q. (By Mr. Schmit) Did Mr. Moore tell you that, in

an interview with you?

A. Well, it is a joke in class, and I didn't want to go into court saying it, and here I am. My recollection of what he said was that --

Q. He, as opposed to other people you mentioned as having been interviewed by?

A. That there was not a full-time position.

HEARING OFFICER: Was that in the interview, Sister?

THE WITNESS: Yes.

HEARING OFFICER: Would you please identify Mr. Moore, again? Maybe it is on the record, but what is his title?

THE WITNESS: Mr. Moore is the gentleman in the back of the room with the brown coat.

HEARING OFFICER: What is his title?

THE WITNESS: He is in the Mathematics Department. I don't know.

HEARING OFFICER: Was he in the Mathematics Department at that time?

THE WITNESS: He was the Chairman of the Mathematics Department.

HEARING OFFICER: All right.

Q. (By Mr. Schmit) Is it your testimony that Mr. Moore told you that there was a part-time position

available?

A. My impression was that there would have been a possible part-time.

Q. Your impression from whom, Sister Gilman?

A. From Mr. Moore, sir. And -- yes. Yes, from Mr. Moore, and my impression from Mr. Hayes was there would have been part-time employment in Computer Education.

Q. This was your impression. Do you recall whether Mr. Moore specifically told you that?

A. My impression is that he said, I would say, that I did recall that he had communicated that.

Q. Now, what was the results of the interviews in December of 1972?

A. The results of the interviews at Niagara University in December of 1972 was that, in my impressions, they did not have full-time employment that would interest me, and therefore, I would not pursue that one unless something changed in the Niagara University situation, which was, of course, the reason I went for interviews. And, this same type of thing happened at other universities and resulted in some offers of jobs. Eventually the situation has changed, and as situations changed, I was offered jobs and I selected Niagara University.

Q. Sister Gilman, did you testify that your present teaching load is four hours?

A. This semester, yes sir.

Q. Why was that?

A. Because I work full-time at a special task, that every ten years occurs, and has been given to faculty members in previous years, and I got it this time. I am ChairPerson of the Steering Committee for Niagara University Self Study to be conducted in 1975 to 1977 in preparation for the upcoming Middle States Association Reaccreditation Visit.

Q. When, in 1977, will that responsibility end?

A. I wish I really knew. Norman Blessing tells me that when he had it ten years ago, you know, it didn't really end just the day after the team left. The follow-up was also part of the responsibility.

Q. Will you be -- well, to the extent that you know, now, will you be teaching a reduced load as long as you have this responsibility?

A. Partially reduced. Next year I will take two courses in the fall semester instead of -- I took one this year in each semester. I will have to play it by ear, as they say, and when the time comes for the Chairman to change the schedule in the spring, and try to figure out how much additional help I can go back

in the department to give.

Q. In the fall, would these be two, three credit hours?

A. One is four credit hours and one is three, which is seven.

Q. Which is seven.

A. Which is half the load that I'd be usually carrying.

Q. That is seven?

A. Yes.

Q. You reside at Sisters of Charity Hospital in Buffalo; is that correct, Sister Gilman?

A. Yes sir.

Q. You reside there in the community with other members of your Order?

A. Yes sir.

Q. How many members of your Order are there --

A. Not --

Q. -- are there residing at Sister of Charity Hospital?

A. Thank you for correcting it. Twenty, at the moment. It changes.

Q. Are you the only Sister of the Order assigned to Niagara University, presently residing there?

A. Employed by the university, no. Sister Barbara

works in the library and Sister Louise works in Campus Ministry.

HEARING OFFICER: May I interject a question?

MR. SCHMIT: Sure.

HEARING OFFICER: Are those two individuals you just referred to, are they in teaching positions at the university?

THE WITNESS: Sister Barbara, in the library does not teach. Sister Louise, in Campus Ministry, does one little part-time teaching in the education for their, they have a course for practical teaching, at the beginning, and she had worked with Mr. Hannigan, who had been overloaded with work, and so, Sister had been assisting here.

HEARING OFFICER: Thank you.

Q. (By Mr. Schmit) What is Sister Louise's last name?

A. Sullivan.

Q. Sister Barbara's last name?

A. McEnaney, I believe.

Q. Are the remaining 17 members of the Order in residence at the hospital, all assigned to the hospital or are there --

A. No, not all assigned to the hospital.

Q. How many are not assigned to the hospital?

A. Well, employed by the hospital; is that what you mean by assigned to the hospital?

Q. If you choose. Is there a distinction? I mean, would there have been some who would be assigned and others employed?

A. Yes, we have five sisters over the age of 75. Okay. Two of them are totally and completely retired. They do nothing, except, you know, as far as work for any employment is concerned. Some of those, the others, visit patients. They belong to, they have a part-time, very small part-time, and they work from the, I think they call it the Pastoral Ministry in the hospital.

Q. These are three of the five that you referred to?

A. Yes.

Q. Are part of the Pastoral Ministry in the hospital?

A. Yes.

Q. These five sisters would be assigned, if you will, to the --

A. Two of them live with us, I'd say, and aren't assigned to the hospital. Two of them have very small part-time jobs in the hospital. One of these is a student and does some part-time teaching in the St. Mary's School for the Deaf, and the remaining ones would be employed by the hospital.

Q. Do the 20 sisters at the hospital reside in a

separate building on the hospital grounds?

A. I already answered that question, sir.

Q. I don't recall the answer, Sister. Would you be kind enough to answer it again for me?

A. I would be happy to.

Q. Thank you.

A. We rent space from the hospital. It happens to be part of one floor of one of several buildings that make up the hospital.

Q. Does anyone else other than the 20 members of your Community reside in that part of the hospital?

A. No.

Q. Is there a Superior in that Community?

A. Yes, Sister Geraldine Coleman.

Q. And is she one of the Sisters employed by the hospital?

A. Yes.

Q. What is her function as Superior of that Community?

A. As Superior of the 20 of us?

Q. Yes?

A. Okay. She would -- I would ask permission from her, I would ask her for the money I need, etcetera. She is Superior over our religious and community life.

Q. How do you spell her last name?

A. C-O-L-E-M-A-N.

Q. Sister, you testified earlier that you did receive a salary check from Niagara University; correct?

A. Correct.

Q. And do you receive that check each month?

A. Correct. Well, ten months a year.

Q. Commencing with the school year?

A. October 1st.

Q. October 1st.

A. Yes.

Q. And then you receive one-tenth of your annual salary in each of the succeeding ten months; is that correct?

A. That's correct.

Q. Are you personally given that salary check?

A. Well, I get it in the mail, like everybody else.

Q. At your residence?

A. Yes sir.

Q. And at that point do you endorse that check?

A. That's correct.

Q. To whom do you endorse the check?

A. Endorse it to the Daughers of Charity, Northeast Province, Inc., or Daughters of Charity, I guess.

Q. Having endorsed the check, to whom do you give it, physically give it to?

A. I don't. I put it in the drawer; I mean I put

it under a drawer in the door in the mailbox.

Q. You put it in the mailbox?

A. I put it in the Superior's mailbox.

Q. That is Sister Coleman?

A. Yes.

Q. Do you know what she then does with the check?

A. No. I presume she puts it in the bank.

Q. Do you know whether she puts it in the bank or does anything else with it?

A. Never bothered to ask her.

Q. Could you refuse to endorse the check in the manner that you have described and give it to Sister Coleman?

A. I could just write Sister John Frances Gilman and give it to her. I have, often.

Q. Could you refuse to turn the check over to Sister Coleman?

A. I could, if I chose to, if I wanted to. I don't want to.

Q. Do you know of anyone living in the community that you reside in, not turning a paycheck over to a Superior?

A. I don't know what the others --

Q. I asked you, do you know of anyone not having done this?

A. No.

Q. Have you ever done it; do you know what the consequences of not doing it would be?

A. No.

Q. Why do you do it?

A. Because I chose to do it.

Q. At anytime in your ministry of the Order of the Daughters of Charity were you ever instructed to do it?

A. It would be expected of me to do it.

Q. By virtue of what would it be expected?

A. Because I took a vow, just like a marriage vow and would be expected to support other people.

Q. Just answer my question. You said it would be expected of you. By virtue of what would it be expected of you?

A. My vow.

Q. In the course of training to be a member of the Daughters of Charity, is this something that you were told by the people training you in explanation of what your vow entailed?

A. I don't like the word you are using, "training", sir. I am not a dog. I am in education. Okay. In formation, in my formation, I do not recall this, discussing this issue; okay. It is very clear that the interpretation of the current rules is what I do.

Q. Is it a current rule?

A. It is not a written rule; it is a current interpretation.

Q. What makes it clear; how did it become clear to you?

A. Because, what I have obtained after entering the Community, okay; I was in a, member of the Community, and I contract as a part of the Community. What I have inherited, if I had inherited by family, or would be given by family, would be given to me as a member of my own personal family. There is a distinction.

Q. When you first come to the community, did somebody tell you, did somebody explain to you?

A. Yes, that first part, what I explained to you was explained to me.

Q. By whom, when?

HEARING OFFICER: Try to answer the question.

Q. (By Mr. Schmit) To the best of your recollection.

A. He asked me to be precise.

HEARING OFFICER: Do the best you can.

THE WITNESS: That would have been explained when I was a young sister, when I lived in Emmitsburg, and it would have been explained by the Sisters in charge of formation at that time and could have been any one of about three different people.

Q. (By Mr. Schmit) That is fine. Thank you, Sister Gilman. Do you know whether or not that explanation, or whatever, that you just described, was reduced to writing anywhere, part of the code or rules of the constitution or written directive in the Order; do you know that?

A. I am sure it is something that implies that, if not explicitly, implicitly, it would be.

Q. And since you have been a member of the Order and received salary checks, you have done this, you have endorsed the check over to the Order?

A. No, I usually just endorsedit, and then --

Q. And then transmitted it to the Order in some fashion?

A. Uh huh.

Q. Yes?

A. Yes sir. That is for salary checks, okay.

Q. I understand. I understand.

A. Okay.

Q. Now, do you know whether the person to whom you transmitted that check, deposited it in a bank account or does something else with it?

A. I'll tell you what I suppose --

HEARING OFFICER: What do you know, Sister Gilman? Do you have any direct knowledge?

THE WITNESS: I don't keep the books in the house, so I --

Q. (By Mr. Schmit) Will you testify from some general rule?

A. I can testify in this way. The checks that I get, when I get money, I get it in the form of a check and they come from a bank in the Buffalo area. Therefore, I presume that they deposit checks that they get in the Buffalo bank so they can draw out.

Q. You don't know that for a fact, one way or the other?

A. That's correct.

Q. You testified earlier that rent is paid to the, I think we can assume, the hospital corporation?

A. I suppose.

Q. For the space that is occupied by the members of your immediate community?

A. Yes.

Q. Yes?

A. Yes sir.

Q. Do you personally make any payment of rent?

A. No sir.

Q. Do you know who does pay that rent to the hospital corporation?

A. Whoever writes the check, sir. Yes, Sister

Geraldine.

Q. Sister Coleman?

A. Correct.

Q. Do you know for a fact whether Sister Coleman or somebody at a different level of the Order?

A. I am sure it is Sister Coleman.

Q. Has she told you that?

A. No, but the Sister who does the bookkeeping is referred to getting -- Sister Coleman signs the checks. One of the Sisters does the bookkeeping and Sister Coleman signs the checks, and we would pay our own things at our own level. It would be ridiculous not to. I can't assume it would be done any other way. We are not ridiculous.

Q. Did you testify earlier you did not know the amount of rent?

A. That's correct.

Q. Where do you eat your breakfast, Sister Gilman?

A. Which table, this morning?

Q. Ordinarily, where would you eat your breakfast?

A. At my home, where I live.

Q. In your Community?

A. Sisters Hospital, with the Community.

Q. And would that be true of your midday meal?

A. No, I buy it at the university when I am on campus.

Q. Where would you ordinarily take your evening meal?
A. Well, if I am on campus I would buy it in the Student Center and if I am at home I would get it at home.
Q. Those meals that you take in the Community, do you personally pay for them?
A. I stated earlier that we pay the hospital.
Q. Do you personally pay anyone for those meals?
A. Implicitly, by giving, paying my check, by original check.
Q. Specifically?
A. No, I do not.
Q. Are the meals eaten in the Community provided by the hospital kitchen, for example?
A. We contract with the hospital kitchen for our food and they, yes, they are prepared by the hospital kitchen.
Q. And served by hospital personnel or by the Sisters?
A. No -- well --
Q. Or by the Sisters in the area?
A. Brought up by hospital personnel from the kitchen.
Q. Do you know what the arrangements for paying for those meals are; for example, all the --
A. No, I do not.

Q. Do you know who in fact -- do you know in fact that they are paid for by the Community?

A. Yes, I do.

Q. Do you know how much is paid for each meal?

A. I do not.

Q. Sister, if you are in need of a new habit, how do you go about getting it?

A. Well, say I need a new habit, so they say, well --

Q. To whom do you say that?

A. To Sister Geraldine Coleman, and she says, "Well, order one.", or have somebody make it or if there is somebody in the house, where somebody makes it.

Q. If you were to order it, from who or from what organization would you order a new garment?

A. I'd have to look it up in the book and find out where I'd order. When it came in I'd get a bill.

Q. Do you recall where you ordered the last habit from?

A. No.

Q. Do you recall whether you ordered from a commercial enterprise or from some other facility of the Order?

A. No, it was ordered from a commercial place.

Q. And if you did need it, and you had ordered it and it was delivered, it would have to be paid for; correct?

A. That's correct.

Q. To whom would the bill be sent to the account of?
A. If I ordered it, the bill would very likely come to me, and then I'd proceed in one of several ways; either get -- I'd either take the bill and say, you know, this is the bill and they might give me the money, and say "Well, go take care of it." Or I'd say "Here is a bill" and they'd say, "Well, all right, have the sister that takes care of the books, take care of it.". On some occasions it is different. If I buy shoes, I might go out to a store and buy them in a store. I might order in a mail order house -- I might order from a mail order house in Brockton, which is a nice shoe store. I might just take the operating funds, the money that I have and have a check made out at the bank and send them that. Sometimes it works one way, and sometimes the other.
Q. Let's go back to our hypothetical of your habit, in which you might proceed in one of several ways. Your first alternative, I believe, is that you would get the money to pay for the billing.
A. I might.
Q. That would be one of the alternatives?
A. Yes, that --
Q. Of whom would you get the money?
A. From the Sister, get somebody to make the check,

the bookkeeper, get a check and I'll sign.

Q. The third alternative might be to submit a bill or account to either of those two individuals for payment by them?

A. Right.

Q. The funds with which they'd be paying the bill would be the community funds, I take it?

A. Really, they'd be the funds that I brought in with my salary.

Q. Would they? Is your salary kept in a separate --

A. Kitty --

Q. Kitty, is your salary kept in the Community?

A. My salary is kept in the kitty.

Q. To your knowledge, your salary is not kept in a separate account?

A. No.

Q. It would be from those Community funds that those bills will be paid; is that correct?

A. That's correct.

Q. You mentioned operating funds a short while ago. What did that mean, Sister Gilman?

A. Instead of saying I need twenty cents for carfare today and I need forty-five cents for lunch, whatever, a glass of milk is about all I can get out of that. I simply say I'd carry a certain amount of money, and

when I get down to a certain level, I say "This is how I spent it." This is the notes, and I spent it this way. Please reimburse me. I get a check for reimbursement.

Q. Is that the practice you, yourself follow?

A. That is what I'd do.

Q. That is what you'd do. How do you go about getting operating funds?

A. I made a budget at the beginning of the year and figure out what I was probably going to need.

Q. By way of transportation expense and living expense?

A. Everything. Well, practically everything, and then I submitted the budget. Then, as I need the moneys, I just get reimbursed.

Q. To whom do you submit the budget?

A. Sister Geraldine Coleman.

Q. Does she then approve it; is that the idea?

A. Implicitly, yes. You know, I hand her the budget. She writes, she tallies, the budget from everybody and knows how much she is reasonably going to have to expend this year.

Q. So, could she disapprove it?

A. I couldn't figure out why she would.

Q. I didn't ask you that. I asked you whether or

not she could, for any reason?

A. She has no right to disapprove what I need. She must do the best she can to supply, to permit my needs to be supplied. She has always got to do that. She is obliged.

Q. Is there a guideline as to what would be or not be reasonable? Assume you went in there and asked for a gold Eldorado?

A. I am talking about needs, not my wants.

Q. I understand that. What do we mean by needs?

A. I might want an Eldorado. What I really need to do the job I am about to do, I need to use the car to get back and forth to Niagara University, and a Nova does it well.

Q. Is there any ruling or guideline?

A. No.

Q. You use your judgement as to what is needed?

A. I use my judgement; that's correct.

Q. You submit a budget based on your needs, to Sister Coleman?

A. That's correct.

Q. Sister Coleman, with respect to your needs, if they would differ from yours, would she be able to disapprove, say a portion of that budget?

A. We would discuss it. She wouldn't be able to

disapprove what I had put down; no way.

Q. Theoretically, does she have the authority to disapprove portions of the items in your budget?

A. I would suppose so.

Q. How then do you receive the funds that you need to operate, we are calling them operating funds; do you get them on a monthly or weekly basis?

A. No, I don't. When I get down to what I consider a safety valve.

Q. We start somewheres, don't we?

A. We start somewheres.

Q. Okay. Let's go to the place where we start. How do you go about placing how much you need to operate in the manner in which you describe?

A. Initially, I say I need this much to operate. When I get down, I feel I need enough for emergencies -- in January, I ran off the road. We had one of those miserable ice accidents, and stuck off of the side of the road, and some passers-by and that, we had to get a tow truck.-- we had to get a tow truck because the Automobile Association truck was not reachable and I had to pay the guy for the emergency tow truck service. I always make sure I have a certain amount for emergencies, to take care of them.

Q. When you start the operating fund, from whom did

you receive the operating funds?

A. Sister Geraldine Coleman.

Q. Do you recall the amount you received from her?

A. What difference does that make?

HEARING OFFICER: Please, try and answer the question. Did you receive any particular amount from Sister Coleman?

THE WITNESS: No, I didn't receive any particular amount. My own idea, if I started out with $50, and got down to let's say, $25, $25 would be the emergency fund that I would carry and wouldn't have to ask her for every other rip stitch. I could have asked for more if I wanted, say $100.

Q. (By Mr. Schmit) In your case, you asked for $50?

A. You understand -- go ahead -- I saved all the money I could save.

Q. You started off with $50; is that correct?

A. Right.

Q. When it gets to, say, approximately $25, you then ask for it to be replenished to $50?

A. That's correct.

Q. How frequently do you have to do this?

A. This is my own self, personally, you mean?

Q. That's correct. How frequently have you had to replenish it?

A. Personally, I really don't know. Very irregular. It depends upon what needs come up.

Q. Can you tell us approximately what you'd spend, in the manner you described, say on a monthly basis, from these operating funds?

A. Well, I'm trying to think. I'd probably spend an amount in the neighborhood of $50; that is for gas and oil.

Q. Approximately $50?

A. Yes.

Q. Do you drive a car back and forth to Niagara University?

A. I do.

Q. Who owns that automobile?

A. The Sisters of Charity at, the Community, Sisters of Charity at Sisters Hospital. It is not the hospital car.

Q. Do other members of that community have access to or use of that automobile?

A. Sure.

Q. Do you receive any fixed monthly allowance of any kind, totally apart from the operating funds you have been describing?

A. Niagara University's paycheck is the only one I received that is fixed.

Q. Do you receive any fixed allowance from your community or order?

A. No. We don't have that practice.

Q. Okay. Now, when you, for example, purchase lunch at Niagara University, as earlier you testified, or perhaps your evening meal at Niagara University, you pay from that operating fund that you have described for us?

A. That's correct.

Q. I think both on direct examination and earlier in my examination you drew a distinction between monies that you earn while a member of the Order, and inheritances. Did I follow that correctly?

A. Yes.

Q. What is the distinction; other than I understand, one is salary and one is inheritance, but apparently there is some distinction in the Order, in those funds, as to how they are to be used?

A. Yes, some of it is mine, okay, some of it is my personal money.

Q. Maybe you can tell me, it would be easier; as to what is the distinction between inheritances and salary.

A. Larger, and that, and inheritance, any of my family, and close personal friends, okay, formed prior to coming to the Community, if they would give me some

monies, property, inheritance and so on, that would be mine.

Q. That would be, in the sense that you would personally own it?

A. Yes.

Q. Would you be able to use it?

A. Yes.

Q. In other words, if you inherited, say $100,000 or $500,000 from your father?

A. Yes.

Q. Right now you could take that money and expend it in any fashion you wanted to?

A. Yes, in keeping with what I have decided to do, I could keep and spend it. I would say, I could spend it on any good works.

Q. Could you spend it on the Eldorado that you might want?

A. I would not consider that any good work.

Q. Could you do it if you --

A. No, because I'd spend it for --

Q. I asked if you could spend it if you wanted?

MR. RANDAZZO: I think she has answered the question.

MR. SCHMIT: I think she has not.

MR. RANDAZZO: She has answered it in fact.

MR. SCHMIT: I asked her a hypothetical. If she didn't want to spend the half million dollars all on good works, but wanted to spend it on a Cadillac Eldorado, does -- could she do it?

HEARING OFFICER: I will overrule the objection.

THE WITNESS: Would you repeat the question?

Q. (By Mr. Schmit) I said, if you wanted to spend an inheritance, for example, upon an item like a Cadillac Eldorado or some other luxury item; could you?

A. If it were a good work, yes.

Q. What do you mean by "a good work"?

A. Something consistent with my whole philosophy of life. Okay?

Q. Are you limited in spending such things as inheritance or gifts that you have described, which you have stated that you own; are you limited in expending those resources, to good works?

A. Yes, I would think so.

Q. Is there some kind of a formal limitation on your ability to alienate, expend, invest or whatever you do, of those kind of monies?

A. If I owned an apartment building as one of my friends in the Community does, for example, you know when I was out in the Midwest, if I owned an apartment building, okay, I could hire the people for the apart-

ment building, to run it for me. I could spend the monies of the apartment building in any way that I thought I ought to run my apartment building.

Q. Could you take those profits and do whatever you wanted?

A. I could take the profits, and with the profits, I might very well have all kinds of taxes, and that kind of things to worry about. I'm not concerned about that at the moment. I would use all the profits for good works.

Q. Do you have to?

A. Yes.

Q. By virtue of --

A. By virtue of the fact I chose to be a Daughter of Charity.

Q. Does that mean that the Daughters of Charity have some kind of rule or directive with respect to the utilization of the kinds of funds that we have been discussing?

A. I would say yes, the custom of the Daughters of Charity is to use their personal monies in good works.

Q. Now, is that custom of the Order reflected in the rule, in the directive?

A. It certainly implicitly is.

Q. Certainly, implicitly?

A. Yes.

Q. As a practical matter, there is a restriction on the utilization of those monies; is that not correct?

A. I guess, the restriction is, "in good works".

Q. So, it is a restriction?

A. Yes, sure.

Q. Now, we have been, or I did, and I think you did earlier in your testimony, distinguished between this kind of property or money, for example, gift by an old friend or inheritance, with salary earned as a member of the Community; have we been drawing that distinction?

A. Yes sir.

Q. And there is such a distinction?

A. Yes sir.

Q. With respect to the salary earned as a member of the Community; do you own that, in anyway, personally?

A. Once I am a member of the Community, I am a member of the Community.

Q. You are?

A. And I, myself, my salary then properly belongs to the Community.

Q. If I understand your earlier testimony, Sister Gilman, you, the Community, on one level or the other, takes care of the retired, incapacitated members or members who cannot otherwise, you know, contribute

to the support of the Community; is that correct?

A. I don't know what you mean by "one level or another".

Q. I mean, the local house or Provincial house or some other house?

A. That's correct.

Q. You care for your own?

A. That's correct.

Q. Or the elderly, who can no longer take care of themselves?

A. That's correct.

Q. Or are incapacitated or whatever?

A. That's correct.

Q. And I understand, you addressed yourself to this before, but you had testified, did you not, that the only deductions from your salary check, is that for medical insurance?

A. Blue Cross-Blue Shield.

Q. Blue Cross-Blue Shield. You are not then a member of a retirement plan; is that correct?

A. If it is not -- if that is, the deduction is the criterion; then evidently not.

Q. Are you aware of a retirement plan?

A. (No response)

HEARING OFFICER: Would you answer the question,

please?

THE WITNESS: I am aware there is a retirement plan, because when I first came in, you know, I got that in the literature I got with my contract.

Q. (By Mr. Schmit) Are you a participant in that plan?

A. No. I should be embarrassed. I never really followed up on that question to find out what the status was.

Q. There is no deduction on your paycheck of any amount for retirement?

A. It would sound like I don't belong.

Q. There is no deduction?

A. There is no deduction.

Q. You don't make any independent payment to that retirement plan?

A. We have a Community fund that we are building for retirement plan.

Q. This would be a fund for members of the Community?

A. Yes.

Q. For their retirement?

A. Yes sir.

Q. Independent of Niagara University?

A. Yes sir.

Q. Sister, you earlier testified that you received a

number of offers of employment?

A. Yes.

Q. Prior to coming to Niagara University?

A. Yes.

Q. And one of those was from Niagara University; is that correct?

A. That's correct.

Q. Do you recall when you received that offer?

A. No, I do not.

Q. Do you recall from whom you received it?

A. I would get it, would have done it through the president.

Q. Father Slattery?

A. That's correct, or perhaps Doctor Lynch. Excuse me. One or the other. The Academic Vice President.

Q. Did you also receive offers from other --

A. Yes.

Q. -- institutions of any kind, employers?

A. Yes.

Q. Other universities?

A. Yes.

Q. How many others did you receive?

A. Well, people give firm offers and they say, this is what we want to do, and I received one firm offer. The other, they wanted to do this, but I had already

then negotiated or begun; I knew where I wanted to go.

Q. Is it correct that your only firm offer was Niagara University?

A. No, it is not correct.

Q. What other institutions had you had a firm offer from?

A. Hunter College.

Q. Did you receive the Hunter College offer at the same time as Niagara University, or after you had already made a decision?

A. Reasonably about the same time.

Q. About the same time?

A. Yes.

Q. Were both offers open at the same time?

A. Well, Hunter was trying to do something very interesting; they saw my qualifications as I went to interview them, been interviewed the same way I had at Niagara. The initial interview there wasn't an opening. They had been interested in the kind of things I was doing and would like to continue to do, and so they were trying to see if they could get, you know, the okay, make the opening, which they eventually did that. I am not sure if I answered your question.

Q. Well, you testified that there was eventually the opening.

A. Yes.

Q. Did they then make an offer after the opening occurred?

A. Yes.

Q. Was that an unqualified offer of employment?

A. An offer of employment?

Q. Yes?

A. I would have considered it such.

Q. Did you have that offer at the same time as the Niagara University offer?

A. Sitting them side by side; no, I didn't.

Q. Approximately the same time? Were you still in the market when you received this offer from Hunter, or had you already decided on Niagara University?

A. No, I had decided on Niagara.

Q. You received the Niagara University offer, apparently, before the Hunter College offer?

A. Yes, but you know, I didn't make the decision right away.

Q. But you had already made a decision before you had the Hunter College offer?

A. I did, in my own mind, yes.

Q. What did you do, and I am talking about vis-a-vis Superior of the Order, when you received the offer from the Niagara University? You testified the name

was Sister Basil; am I correct in that?

A. Pardon me?

Q. Sister Basil, your Superior, at the time?

A. Well, actually, she was going to be my Superior. I was in a different Province. Maryland is in another Province, but I was moving, I had asked to move up to the Northeast Province and so negotiations about the future, okay, job, as of September of 1973 and thereafter, would have been done through a person who was not yet my Superior, but who would have become my Superior. So, --

Q. Just a second. What did you mean by, negotiations through the person who was to become my Superior?

A. Well, all right. I personally chose, when the St. Joseph College was closing, I chose to request to change Provinces, and because my family lives in New York-New England area, and so I, you know, asked if I could change Provinces, and that would be in agreement between the two Provinces, the one would let me go and the other would like to have me, and they were very nice, and said "Yes, you may go", and the other one said "Yes, you may come.". Iwas still working and employed in the college, so I was making negotiations for the future, with the person who would be responsible for me at the time I was then making a

contract, that year --

Q. So, at that point, Sister, you were making negotiations through Sister Basil, who I understand is to become your Province, in the future?

A. I sent her a letter; "These are the things I have been doing. These are the things I think I have been doing the best. These are the things I would like to do.". She also wrote back and said "That all sounds very interesting. I think it would be a good idea, those things you did.".

Q. What are we talking about; "those things"?

A. I had been teaching in college seven years, six to seven years. I had finished seven years when I left St. Joseph. I had been working as a teacher, education, both at the college and the State of Maryland.

Q. So it was a continuation of college teaching?

A. That's correct, yes.

Q. You had mentioned, I believe, negotiations through her. Was she an intermediary?

A. I am using a sophisticated word for a very unsophisticated process. Right. We sit down; geographically, and we would have chatted. I would like to retract the formal word "negotiation". I wrote and told her what I could do and what I would like to do. She

said "fine". Initially, I think she was going to try to write to various places to see if she could identify areas where there'd be a job opening, and I believe she did, but that personally is something I don't like, and, but I didn't say anything about it. But, I then was given the okay to go ahead and see if I could get myself a position in a college in this area, preferrably, but not necessarily within the geographic area covered by the Northeast Province.

Q. All right. "She" being Sister Basil, approved your desires to continue as a college teacher in this area?

A. That's correct.

Q. And to go ahead with those general plans.

A. Yes.

Q. Now, when you got -- when you received an offer of employment, then, from Niagara University; did you consult with her?

A. Yes. After I had finished the visits that I had done in November, and in December of 1972, I sent her a note, a summary of where things stood. When I got offers, I sent her a summary of that, and she then said, well, you know, I told her which one I'd prefer and why, and she said, "Well, go ahead".

Q. Could she or -- the two Provinces involved, the

Provincial at Emmitsburg, Maryland, have said no?

A. The Emmitsburg Provincial could have said "No, I won't release you", but she said, yes, she'd release me or I'd have no business looking.

Q. Speaking specifically as to the Niagara University offer, you got the offer, I believe you testified; you sent in information pertaining to it, to Sister Basil, as becoming your new Provincial, and you told her, and I find in your testimony, and I would like to state, she said "Go ahead"; I am asking you if she could have said "No, don't take it."

A. She could have said "No, don't take it" if I didn't have a contract. Once I had a contract --

Q. She could have said that?

A. What?

Q. "No, you cannot accept the offer"?

A. I do presume she could have.

Q. That didn't happen?

A. I already knew in advance, and made sure it was all right, in advance.

Q. Then, you did then, accept the offer, and go to Niagara University?

A. Yes.

Q. Now, did you then sign a contract with Niagara University?

A. I did.

Q. Do you know whether or not this is the same contract that is signed by members of lay faculty?

A. I am quite certain it is. I didn't see anything about the contract that would be different from the lay teachers.

Q. Are you familiar with the lay teachers contract?

A. Well, I have never seen one of them.

Q. You don't know whether or not they are the same document?

A. I have no reason to believe that they are not the same document.

Q. Do you have any reason to believe that it is the same?

A. I have lots of reasons to believe it is the same wording. It has absolutely nothing to do with religious.

Q. You have never seen a copy of the lay faculty agreement?

A. No, because each one has his own. I don't think they would let me see theirs, filled in with their name and things like that.

Q. For what period of time was the contract that you first signed with Niagara, up?

A. The usual ten months.

HEARING OFFICER: Excuse me. May we go off the record?

(Discussion off the record.)

HEARING OFFICER: Back on the record. In view of the hour, about 12:45 p.m., we will take a recess, at this time for an hour for lunch. We'll resume at 1:45.

(Recess taken for lunch at 12:45 p.m.)

AFTERNOON SESSION

(1:45 p.m.)

HEARING OFFICER MATCHULAT: Back on the record. At this time, prior to commencing with the examination; during the recess, the motion of the Employer-Petitioner, which was concurred in by the Union, was referred to the Acting Regional Director, who has executed an order transferring the Representation case to the National Labor Relations Board. It is dated this date, and a copy has been served upon both the Employer-Petitioner and Union. And, at this time, I'd introduce into the record as Board's Exhibit #2, the aforementioned order transferring the case to the Board. (Board's Exhibit #2 marked for identification and received in evidence.)

Mr. Randazzo, did you have something?

MR. RANDAZZO: I noted on the document, that the date for filing of briefs has not been inserted.

HEARING OFFICER: That is a matter that will be taken up at the conclusion of the hearing. Are you ready to proceed?

MR. SCHMIT: Yes, I am.

CONTINUED CROSS EXAMINATION

Q (By Mr. Schmit) Before we broke for lunch, we just began to speak about your contract with Niagara University. Do you recall that?

A. Yes sir.

Q. You testified, I believe, that you did sign an initial contract for a one-year period?

A. Yes sir, or ten month period.

Q. Correct. Well, for an academic year?

A. Yes.

Q. And what academic year was that first contract for; do you recall?

A. 1973-1974.

Q. What is the termination date on the contract such as the one you signed in 1973?

A. June 30th of the year.

Q. What is the process in connection with a contract for the next year; what happens?

A. The university administration sends out contracts in the spring of the year to all of the faculty members that are to be offered contracts, and you have a certain amount of time to consider the contract and to sign it and return it, if you so wish, and that is the procedure that has been followed since I came to Niagara. In other words, in the spring of 1974 I was mailed the contract by the Academic Vice President and signed it in due time and returned it and then in the spring of 1975 I was offered another contract and proceeded in the same way.

Q. With respect to the spring of 1974, when you were afforded a contract for the following academic year; what is it that you did with that contract upon receipt?

A. I signed it.

Q. Did you have to consult with anyone with respect to signing a new contract?

A. No, because you know, they already knew that I was at Niagara. So, if the university continued to give me a contract, I signed the contract. I made a copy, kept a copy and returned it.

Q. You said they already knew that you were at Niagara University. You only had a one year contract. Do you know you were at Niagara for a period in excess of one year?

A. No, but my interpretation, they said you can go to Niagara University. In my interpretation, that I could stay there for the foreseeable future, so automatically, when I get a contract to sign for renewal, for continuation of my time at Niagara, I would understand that that was acceptable.

Q. Did you, in fact, consult with anyone in the spring of 1974 or spring of 1975?

A. I would send a copy to Albany, the Provincial House, that they would have this on their records.

Q. Would you send a copy prior to or subsequent to executing a contract?

A. When you say, "executing", you mean signing?

Q. Yes.

A. After I signed it, I sent it.

Q. Was there any notice to the Albany Provincial House or any consultation with your Superior Provincial prior to signing the renewal contract in 1974?

A. No.

Q. Pardon me?

A. No.

Q. Was there any in 1975?

A. No. I, you know, I don't really expect to be told until I get to be 65, or unless I decide I have had it or I'm getting tired or find a better offer; I don't expect to be told. That could happen, but I don't expect it.

Q. I think my question was whether you consulted with or communicated with anyone in Albany in connection with the spring of 1975 renewal?

A. Well, if you are saying, casual conversation in the sense that, you know, this is what I am doing, the implicit --

Q. That is very nice. Implicit.

A. If you consider that consultation, then, if you

do, the answer would be, yes.

Q. Did you in fact have that kind of conversation both in 1974 and 1975?

A. No. I am sure I did in 1974, but I am sure I didn't in 1975. I am sure I did, but I remembered having a conversation once, and it could have been in 1974; right, It would have been in 1974, but not now. The pattern is established. So, I know what I am doing.

Q. With whom did you have the conversation in 1974?

A. It would have -- I am trying to figure out whether it would have been before I signed -- it wouldn't have been before I signed the contract. It would have been the summer after I signed the contract; I, saying, "I presume this is all right with you.". It would have been with Sister Mary Basil.

Q. I am afraid I didn't understand all that response.

Do you know whether it was before or after you signed the contract?

A. What I am trying to say to you; I did not sit down and did not say to myself, I must call Sister Mary Basil, or wrote a formal letter saying, "May I sign the contract?"

Q. Sister Gilman, I'm not inquiring about that at all. What happened in 1974; not what went through your mind

or anything else. Not what went through your mind. What happened?

A. Sometime in 1974, before or even after I had a contract, signed a contract, I had discussion of the fact I signed the contract.

Q. You do not recall whether it was before or after?

A. That's right; it could have been either.

Q. I don't want to misquote, but did you testify, a short while ago, that Sister Basil said "That is okay"; some statement by you to that effect?

A. In my interpretation, it is perfectly all right for me to keep on signing contracts with the university as long as they keep on offering them.

Q. That was your interpretation following the conversation with her, with Sister Basil?

A. Yes. Yes. Excuse me.

Q. Now, could Sister Basil not also tell you that it is not okay to continue signing contracts with Niagara University?

A. She could.

Q. I understand that she has not.

A. No, she has not. I would not expect her to.

Q. But, she could; is that correct?

A. Yes.

Q. Sister Gilman, I am just giving this by way of

reference, referring to page 63 of the transcript of the prior proceeding, at which time I read a portion of the Niagara University Statutes, specifically paragraph D, part D, Section 6, at that time. In part, it says, in reference to Diocesan Clergy and Religious Communities; "They do not acquire tenure and cannot claim its protection to sustain their title to continuance as faculty members". Is that correct, you do not?

A. If you would, checking through that; that's correct, do not acquire tenure, but I get seniority in lieu of tenure.

Q. What is "seniority in lieu of tenure"?

A. If you refer to the statutes that you have on your left, it is defined in there.

Q. Generally speaking, what is your understanding?

A. Generally speaking, it means that I have all the rights and privileges and obligations and duties of anyone who is tenured. I am a religious, and because of that have seniority in lieu of tenure.

Q. What is the distinction between yourself and a tenured faculty member?

A. The distinction that you, what you have, you know, asked me on a couple of occasions; could, indeed, my Superiors ask me to go someplace else. Right.

Q. Yes.

A. And indeed they could, and indeed I would, if I agreed with them, I presume, because they are very reasonable and rational people, that I would, and therefore, I would not. Indeed, if it could be, it is done different ways in different universities, and it still could be that if I were tenured and if I were a faculty member and I wished to be released from tenure, that I don't want to sign the contract again, I don't have to.

Q. You testified at the prior hearing, in the record, and I want confirmation as to that aspect; you don't have the job security aspect, is that a fair summary?

A. No. I think that, seniority in lieu of tenure gives me job security, it assures me of job security as far as Niagara University is concerned, as long as it's religious.

Q. What is the difference between tenure for lay faculty and seniority for religious; apparently there is a distinction, and I am trying to determine what it is.

A. Yes, it is bound up -- if you read the first paragraph of that. May I read it?

Q. In the record, page 63 of the prior transcript.

A. The opening sentence answers the question.

HEARING OFFICER: Why don't we show the witness the previous exhibit, Board Exhibit -- I mean Joint Exhibit 1. Off the record.

(Discussion off the record.)

HEARING OFFICER: Back on the record. Let the record show that the witness has been given a copy of the exhibit which is Joint Exhibit 1 in this proceeding.

MR. SCHMIT: I think it was two, Mr. Hearing Officer.

HEARING OFFICER: In our Exhibit 1 in this proceeding I have just handed the witness. It was, in the previous proceeding, the statute was Joint Exhibit #2.

MR. SCHMIT: Thank you. I understand.

HEARING OFFICER: Page 27.

Q. (By Mr. Schmit) I think my question, Sister Gilman has been the distinction between tenure for lay faculty and seniority in lieu of tenure that I had mentioned and you asked to be referred to the statutes. So, Sister, in giving your answer, you now have the statutes in the proceeding in front of you; is that correct?

A. That's correct.

Q. Would you like to continue with your response?

A. You wanted to know? I have this in front of me. Would you say the question that you want me to answer?

Q. I asked you for distinction between tenure for lay faculty and seniority in lieu of tenure which you have described.

A. Right.

Q. And I think you wanted to read from the statute, if I am correct?

A. Yes, I wanted to check. "Since members of the Vincentian Community, the Diocesan Clergy and Religious Communities are assigned to and removed from university service by their religious superiors with the approval of the President of the university, they do not acquire tenure and cannot claim its protection to sustain their title to continuance as faculty members." I'm saying, as I read this, is that I am a religious --

Q. That would be the end of the quote?

A. That is where I stopped. As I am a religious, since I am a member of a Religious Community, then I do not acquire tenure and cannot claim its protection to sustain continuance on the faculty. I understand by that, that if I wish to go into conflict with my religious superiors who decided that they would like me to move to another place, then I would be forced in to the option of fulfilling my vows. I might be

forced into the option of fulfilling my vows or violating them, and in that sense, they then remove me, and might choose to assign me someplace else. I would then go someplace else. I would not claim tenure protection against my own religious.

Q. In fact, could not?

A. I would not.

Q. Could not?

A. Right. The difference between the tenure and the seniority in lieu of tenure, again, I have all the rights there. Quoting; "This designation entitles a person to all rights and privileges attached to tenure except that of permanent appointment as a faculty member.".

Q. You quoted from the same page of the exhibit?

A. Yes.

Q. Nothing further in connection with that, Mr. Hearing Officer.

HEARING OFFICER: Thank you.

Q. (By Mr. Schmit) Sister, you testified that while living and employed at St. Joseph's College in Emmitsburg Maryland, you took a position as consultant to some agency of the state government. I can't find in my notes what it is called.

A. Yes. I worked one day a week for two years for

the Department of Education, Division of Instructional Television.

Q. Did you receive some compensation for that?

A. I did.

Q. That was in the form of what?

A. Check.

Q. Paycheck?

A. Yes, the check was issued by the State Department of Maryland, or Maryland State Department.

Q. What did you do with that check?

A. I signed it, and the usual.

Q. The same as before?

A. Yes, except that a good part of the check was really already taken -- well, I took out because of my travel expenses, my food and all.

Q. You then signed it to the community, your salary?

A. The house.

Q. Pardon me?

A. The house where I lived.

MR. SCHMIT: Excuse me a minute, Mr. Hearing Officer.

HEARING OFFICER: Yes.

MR. SCHMIT: No further questions.

HEARING OFFICER: Mr. Randazzo, do you have anything further?

MR. RANDAZZO: I have nothing else, no. Other than, Jim?

MR. SCHMIT: Pardon me?

MR. RANDAZZO: I'd like to offer the printed version of the statute and by-laws. I think when we had the first hearing there was reference to them and they weren't yet printed. There may not have been any significant difference, but to the extent they are used today and the hearing is taking place today, and talking about something under today, and I am offering it today.

HEARING OFFICER: Mr. Schmit?

MR. SCHMIT: I would have no objection. I would say this; I have not compared them to the exhibit that was put into effect or put in evidence at our prior hearing. My recollection of the testimony at that time from Doctor Lynch was that the first six sections of the statutes had been approved, but there was still some work to do on other sections that were not related to faculty. I don't recall his ever putting by-laws in at the last hearing.

MR. RANDAZZO: You're right.

MR. SCHMIT: As Mr. Randazzo stated, this is what they have now and I don't mind being it a part of this record.

HEARING OFFICER: Thank you. Accordingly, the statutes will be, we'll have those marked as Joint Exhibit #5, and the by-laws as Joint Exhibit #6. They will be received.

(The documents above-referred to were marked Joint Exhibits 5 and 6 for identification and received in evidence.)

MR. RANDAZZO: I have nothing else.

HEARING OFFICER: Just one question forSister Gilman.

EXAMINATION

Q. (By the Hearing Officer) With respect to the employment that you were referring to for the State of Maryland ?

A. Yes.

Q. Did you make application for that job, or was your -- the Daughters of Charity in anyway involved in authorizing you to go to that position?

A. I did not make application for the job. I was requested to take the job by the Maryland State Supervisor of Mathematics, and I accepted the job. I did have to get permission from the President of the college, because it meant that my schedule would have to be re-arranged in a way in which I would not have classes on Thursdays, so because it involved the working with the college, whether they wanted to fix

my schedule or not was up to their discretion, so that they chose to arrange my schedule so that I would be teaching nights instead of days.

Q. With respect to the college -- what was it?

A. St. Joseph, of Emmitsburg.

Q. Did you have to confer at all with the Daughters of Charity with respect to that?

A. I didn't.

HEARING OFFICER: That is all. Mr. Randazzo or Mr. Schmit, do you have anything further in response to my questions?

MR. SCHMIT: No.

MR. RANDAZZO: No.

HEARING OFFICER: You are excused.

(Witness excused.)

HEARING OFFICER: At this time, the Hearing Officer calls Father Joseph Lachowski.

Whereupon,

FATHER JOSEPH LACHOWSKI

was called as a witness by and on behalf of the Board and, having been first duly sworn, was examined and testified as follows:

EXAMINATION

Q. (By the Hearing Officer) Have a seat, and give your name and address to the reporter.

A. My name is Joseph Lachowski. I temporarily reside at Meade Hall, Niagara University and my permanent residence is St. John Kanty Prep, 3002, East 38th Street, Erie, Pennsylvania.

Q. Father Lachowski, do you presently work at Niagara University?

A. Yes.

Q. What is your position at Niagara University?

A. Associate Professor of Religious Studies and the catalog for next year has me down as Professor of Religious Studies.

Q. Father Lachowski, would you raise your voice, please, for all the attorneys?

A. Yes.

Q. And how long have you been at Niagara University?

A. Since January, 1975.

Q. With respect to the duties you were just describing, or the functions you have at Niagara University; have you been doing those since January of 1975?

A. Yes.

Q. And in your teaching function, how many hours do you teach?

A. Twelve hours.

Q. That is per semester?

A. Yes.

Q. Twelve credit hours?

A. Yes.

Q. Thank you. And what Religious Order are you a member of?

A. The Vincentian Fathers, but of the New England Province.

Q. Would you please relate what the term "Province" signifies?

A. Well, there are divisions of our congregation. The United States is divided presently, as of last year, or was of April, into five Provinces. That would be the Province of Los Angeles, Province of St. Louis, Province of New Orleans, Province of Philadelphia and New England Province.

Q. Now, you are of the Northeast Province?

A. New England.

Q. I'm sorry. New England.

A. Yes.

Q. Prior to your coming to Niagara University, where were you located?

A. St. John Kanty Prep, teaching natural sciences, as a full-time teacher, and you know, that is the high school children, natural sciences at St. John Kanty Prep, and earth science and French, I taught, just before I came here.

Q. How did it come about that you came to Niagara University?

A. I have to tell a little story before I can tell you exactly. I was elected as a delegate to the General Assembly of our Order in the summer of 1974 and that was taking place at the beginning of August and it would have gone into the school year, at least six weeks into the school year, so they asked me to take a leave of absence, sabbatical for a year, and take my sabbatical vacation for a year. So after I came back home, I was available for whatever they wanted me to do, and the original idea was that I should help out in another house in the East, in Whitestone, New York, but they didn't need any help at the time. So, it just happened that our Superior from Erie was here at Niagara, or something or other and he'd be driving back with Father Martin, who was Chairman of the Religious Studies Department. Father Martin said that he needed someone. He knew me. In fact I had my doctorate the same place he did.

Q. You say --

A. Father Martin, who was Chairman of the Religious Studies Department, and he -- well, my Superior, well, he asked my Superior to have me call him if I was interested in it and I called him the next morning and

it just started out that way. I told him that I would like to do it, and what he did after that, I don't even know, but he told me exactly when the next semester began.

Q. When you're referring to your Superior; who was your Superior at that time?

A. Father Chester Mrowka, in Erie, Pennsylvania, at that time.

Q. When you were referring to the Superior, are you referring to the Provincial Superior?

A. No, we call him a Local Superior of that home, that house in Erie, Pennsylvania; St. John Kanty Prep.

Q. Now, what was his connection, if any, to the Vincentian Order?

A. He is a Vincentian. He is the Superior of the St. John Kanty Prep establishment or house.

Q. Was that house within the Northeast Province?

A. New England.

Q. New England. I'm sorry.

A. Except, I must make the distinction, at that time, we were not as yet the New England Province. That happened officially last April, and we were called the Vice Provinces of Utica, New York, or the Vice Province of Poland.

Q. Now, what occurred after you contacted, I believe

it was Father Martin?

A. Yes.

Q. What were the events leading up to your employment after you got in touch with Father Martin?

A. Actually, I didn't hear anything from him. He just gave me a date when the semester began and I think there was a phone call a few days before the day, where he checked with me, whether I was coming in, and I said yes. Prior to that he asked me about what text books to be used and things of that nature. But outside, I had not seen him, and this was by the communication, by letter.

MR. SCHMIT: By what?

THE WITNESS: Pardon me?

MR. SCHMIT: By what? I didn't hear you.

THE WITNESS: By letter.

Q. (By the Hearing Officer) Now, after you had the initial conversation with Father Martin, where apparently it was agreed that you would come to Niagara; did you, either before that time or at that time, or about that time consult with anyone from, I believe it was the Vice Province, at that time?

A. Actually, I did not consult with anyone. Father Chester Mrowka asked me if I would be interested and he said "If you are interested call Father Martin".

Q. And after you called Father Martin did you relay this information about the job to Father Mrowka or anyone else?

A. Well, I told him that I was willing and I could have the job.

Q. What did Father Mrowka say to you; did he say "Fine"?

A. He told me at the beginning, if you want to, you can go.

Q. Now, at the time you started at Niagara University, did you sign a contract?

A. Yes, a few days after I arrived and had already begun, I got a letter with the contract in it, from Academic Vice President. I was to sign it; that's all.

Q. Did you sign it?

A. Yes.

Q. Do you know the duration of that contract?

A. That particular contract was for that semester, that was from, I guess this was dated something like, oh, that day that I came, but that I would be paid from the first of February till, I think July 1st or something like that, like five months.

Q. Prior to July of 1975 did you sign another teaching agreement, teaching contract?

A. No, I didn't.

Q. Did the teaching contract expire in July of 1975?

A. Yes.

Q. And after it expired or since it expired, have you executed any teaching agreement, teaching contract?

A. Well, I checked with my Superior, see, because this thing was predicated on this idea that I had a year's leave of absence for teaching in high school, so that year would have been overwith, and I asked, well, should I teach the coming year. That is just about what I asked or what I said to Father Chester Mrowka. He says "Well, it looks good. Why not?". That is all it was.

Q. Have you since signed another, a second teaching agreement?

A. Once again, when I got there, I don't know exactly when the day was that we began that semester, that would be the fall semester of 1975; I got the contract then and signed it.

Q. That was in the fall of 1975?

A. Yes.

Q. What is the duration or the period of time of that teaching contract?

A. That was for the full year, academic year.

Q. That was for the full year?

A. Yes.

Q. And is that to expire in the fall of 1976?

A. I don't know whether June 30th or maybe July 1st, but I'd say that I was available to teach in the summer.

Q. No, I mean your present agreement, when does it expire?

A. Yes, it would be, where it says that the first of July is the last payment or something.

Q. Father Lachowski, as a member of the Vincentian Order, that is New England Province, have you taken vows?

A. Yes.

Q. Do Vincentians of all Provinces, to your knowledge, take similar vows?

A. Yes, our vows are private vows.

Q. But, to your knowledge, do Vincentians of all Provinces take the same vows?

A. Yes.

Q. Father Lachowski, would you please describe the vows and their meaning?

A. The vows and their meaning?

Q. Which vows they are and what the significance of them are?

A. Well, there is a vow of poverty, chastity and obedience and we do have a fourth vow of stability.

Q. What do each of those mean?

A. Well, basically one of it is that the whole notion of "Everything to God", but it is within the context of the constitution and statutes of the congregation.

Q. Let me just back up a moment. You mentioned before, they were private?

A. Yes.

Q. As opposed to --

A. Public.

Q. Is the term, "simple and private" is this the way that they'd be described as opposed to the term which would relate to "solemn and public"?

A. Simple as opposed to solemn; private as opposed to public. Simple, where you can own things. Solemn, you do not own things. And private is actually not received by the Superior, just in the presence of the Superior. In fact that is the way it is stated; presently, not received by the Superior.

Q. And what about the public?

A. It would be --

Q. Now, the vows are made to whom?

A. To God.

Q. With respect -- could you please describe the significance of the vow of poverty, what that vow means?

A. In general, our simple vow of poverty, that we can own things with permission from the Superior, then you can have all kinds of --

Q. With respect to that vow of poverty: what about the use of property?

A. It can be used. There may be some distinctions with regard to the purpose of that use. It is normally for the good of the poor or for charitable works, that--

Q. You say you can own with permission?

A. Right.

Q. Whose permission?

A. Normally, the immediate Superior would be the Local Superior of the house where you are.

Q. When you say "house", is that a Province Superior or Vincentian Superior?

A. No, Local, someone simply over a smaller unit, which is a house.

Q. Is your Superior a Provincial Superior; maybe I am just getting confused, myself?

A. There are local houses and then the Provincial Superior is above them.

Q. And your superior is a Local Superior?

A. Yes.

Q. And does he report to the New England Province Superior?

A. The Provincial, yes, a Provincial of New England Province.

Q. Do you know who the Provincial of the New England Province is?

A. Julian Szumilo. S-Z-U-M-I-L-O; Julian.

MR. SCHMIT: Could we do that one more time, please, the spelling of the name?

THE WITNESS: Julian S-Z-U-M-I-L-O.

MR. SCHMIT: Thank you, Father.

Q. (By the Hearing Officer) If you know, Father Lachowski, who does Father Szumilo, who is his Superior?

A. His Superior, in the sense of a Superior General, Father Richardson.

Q. The Superior General of the whole Order?

A. Over the whole Vincentian Order in the whole world.

Q. Father Lachowski, would you please describe the vow of obedience andwhat the significance of that is, to your knowledge and understanding?

A. Well, overall, I would say that it is the idea that you subject yourself, in a certain sense, to the way our statutes or rather the constitution says, first to the Holy Father, to the Bishops where you are, the Superior General, Provincial Superiors, Local Superior. But recently with the updating after the Vatican Council, much of what before was more or less as

CSA Reporting

absolute, now is done almost always with consultation. That is why I say, the way it came about, that I took the job as were here, was just that way, that they asked me, "Would you like to?". I sayd "Yes, sure.". In other words, they didn't tell me to go ahead and take that job.

Q. But in effect, what if it was determined that you were to be removed from the position contrary to what you would desire; assume you wanted to stay?

A. There would have to be some reason.

Q. Would there be some authority to remove you if you didn't want to be moved?

A. If I did not want to be moved?

Q. Let's assume they wanted to reassign you from your present position, but you wanted to stay?

A. The first thing they would do, normally, now, that they would ask me, "Would you want to stay?" But if there was some grave need, you know, that is possible, too.

Q. Could they reassign you contrary to your wishes? I mean, would your vow of obedience require you to honor the wishes of the Superior General of the Vincentian Order?

A. Could I say; theoretically, yes, but normally now, procedure is that they normally ask the person.

Q. The Superior General would have that authority, would he not?

A. Theoretically, but even now it is not stated that way. I mean, in our own regulations, that there is a prior consultation on all these levels and even more so on the local level, where people are consulted on what they want to do.

Q. But, is it not a fact that the Superior General --

A. Has the last word?

Q. I am just trying to find this out; he has the last word?

A. Right.

Q. Now, with respect to your compensation, Father Lachowski; do you receive a salary?

A. Yes.

Q. And is that a check given to you by the university?

A. Yes, it is made out to me.

Q. How do you receive it?

A. In the mail, usually around the first of the month or the day before that.

Q. And how often do you receive the check from the univeraity?

A. Usually the first of the month. That means, I guess, ten times a year.

Q. And has there been a stub attached to the check?

A. Yes.

Q. And have you noticed any deductions taken from the check?

A. I have no deductions.

Q. You have no deductions?

A. Right.

Q. Upon your receipt of the check, Father Lachowski, what, if anything, do you do with it?

MR. RANDAZZO: Objection, for the same reasons that I stated with respect to the same question to Sister John Frances Gilman.

HEARING OFFICER: Overruled.

MR. RANDAZZO: Exception.

HEARING OFFICER: You have it.

Q. (By the Hearing Officer) What, if anything, do you do with your check after you have received it?

A. I sign it with the name, endorse it, just the way it is made out. I usually put down, "Pay to the order of Vincentian Fathers of Erie, Pennsylvania.". I send it that way to my Superior, who now is actually another person, but in St. John Kanty Prep.

Q. That is in Erie?

A. Yes.

Q. Now, are you provided with any revenues of any source, in order to perhaps -- you have been here this

morning, referring to operating funds -- do you have anything such as that?

A. Frankly, let me say what it really is. I simply live at Meade Hall, like any other confer of Philadelphia Province, except that these allowances that we are speaking of, spoken of before, I get that from Erie, rather than from the Philadelphia Province.

Q. I see. Now, do you receive a fixed amount at a particular interval in time; for example, twenty dollars a week?

A. The allowance is thirty dollars a month.

Q. Thirty dollars a month?

A. Yes.

Q. You're referring to personal allowance?

A. Yes.

Q. To cover your personal needs?

A. You could say that, yes.

Q. If you needed additional monies, for example, to travel for some particular purpose, what would you do?

A. It would vary with the purpose. If it were, say Niagara University, or whether it was strictly our own Province, that would be New England Province; I would get remunerated by them.

Q. By the Province?

A. By that Province.
Q. Now, you reside at Meade Hall?
A. Yes.
Q. Are you provided with food and clothing?
A. Yes, everything I need.
Q. Who, or what entity is responsible for providing you with food, shelter and clothing?
A. I don't know the details of that at all. I mean, just like any other confer at Meade Hall, I am eligible for whatever they get.
Q. Do you eat all your meals at Meade Hall?
A. Yes, I live there. While I am here I live there all the time.
Q. And for example, if you had to buy clothing or if you do buy clothing, how does that work?
A. Now, actually I haven't bought anything of significance so far, except I did buy a, say jacket or something like that, with my own money, my allowance money, some other things they have right in what we call a poverty room, maybe a shirt and things of that nature. So, that is available right there.
Q. And Meade Hall, is that run by the Vincentian Order or do you know who operates Meade Hall? Perhaps that is in the record; I don't recall.
A. I know it is a part of the university, and it is

the Vincentian Fathers, but just how the detail, since I am not -- I don't go into their Province, I don't know those details and I don't bother to inquire about them, either.

Q. Do you participate in a retirement plan at Niagara University, Father Lachowski?

A. No, I do not.

Q. Is that you don't, or you don't know if you do?

A. I know I do not.

Q. Since --

MR. SCHMIT: Was that question with respect to retirement plan?

HEARING OFFICER: Yes, it was.

MR. SCHMIT: Thank you.

Q. (By the Hearing Officer) Since you have been at Niagara University, Father Lachowski, have you been disabled or ill for any lengthy period of time?

A. Ill?

Q. Ill or disabled?

A. No, I was not.

Q. Do you have health insurance coverage?

A. I have it from St. John Kanty Prep, because Father Dunn asked me about a week or so after I arrived, whether I did have Blue Cross and Blue Shield, and I said "Yes". Since then, nobody asked me again, and

I know I am on the list in Erie.

Q. Just assuming for the sake -- I am making an assumption, Father Lachowski. If you were to be dismissed for some cause from your current position at Niagara University, do you know how the dismissal would be implemented? In other words, who would dismiss you and how would it come about?

A. As far as I know, I think, just Niagara University, because in a way, this was done, -- my, it wasn't really an appointment; they asked me, would I like to have it, so it is more or less personal that way, so that it wouldn't depend on our Superiors in anyway, I mean, of the New England Province.

HEARING OFFICER: That is all the questions I have at this time. Mr. Randazzo, do you have questions?

CROSS EXAMINATION

Q. (By Mr. Randazzo) Father, how long have you been a member of the Congregation of the Mission?

A. I was accepted in the Congregation in 1947.

Q. As I understand it, the house that you belong to, your community is the one that is located in Erie, Pennsylvania?

A. Yes.

Q. I believe you mentioned the name of Father --

A. The last name I mentioned was Father Chester Mrowka.

Q. Father Mrowka is your Superior?
A. Except that he has been replaced. His term was up and at the end. He has been replaced by Father John Seledziona.
Q. And then that particular Superior reports to the Provincial?
A. Yes.
Q. And you have given us the name of the Provincial?
A. Yes.
Q. Now, is Father Mrowka in anyway connected in any fashion to Niagara University, involved with them in any fashion?
A. No.
Q. Do you know whether Father Seledziona is?
A. No, he is not connected in anyway.
Q. At the time that you testified about the circumstances under which you went to Niagara --
A. Yes.
Q. -- what was Father Martin's capacity at that time?
A. The head or the Chairman of Religious Studies Department.
Q. Was he any Superior of any kind that you know of?
A. Not that I know of.
Q. Now, can you state those matters that the vow of poverty would apply to?

A. Well, money received. Property of some kind donated or something.

Q. It would be fair to say that the vow would apply to the Community and your involvement with your Community?

MR. SCHMIT: I am going to object to that. That is rather blatantly leading and suggestive to the witness. He answered the question.

MR. RANDAZZO: I was under the impression --

HEARING OFFICER: Objection overruled.

Q. (By Mr. Randazzo) Does the vow of obedience have any application to your performance of your duties as an instructor?

A. Not that I am aware of. Normally I have been given an appointment or I have chosen to teach, and prior to that I was educated for that very purpose, and in the sense now I am just fulfilling that.

Q. Now, you are familiar with labor unions?

A. Yes.

Q. Would the vow of obedience have any application, to your knowledge, of involvement on your part in any labor organization or the refusal to participate in activity of any labor organization?

A. I'd consider them distinct, in the sense if it were for the betterment of my particular function, I'd

have to go along with it.

Q. Now, are you a member of other organizations?

A. Yes.

Q. Organizations that are concerned with your activity as, in your field or --

A. Yes.

Q. Or as an educator?

A. Catholic Biblical Association of America.

Q. Now, the Hearing Officer asked you a question with respect to the involvement of Superiors or Provincial in the Vincentian Order with respect to dismissal. Now, in the event that you were determined to be incompetent, for instance, and dismissed by the university; would the university have to get prior approval of your Superiors to terminate you?

A. I don't think so.

Q. Now, you have been asked questions about what you do with your paycheck and you have testified that you send it to your Community.

A. Yes.

Q. Can you tell us what things, if you know, that the Community does with the monies that are received in this fashion?

A. Well, one of the reasons that I did take this opportunity is because our school needs quite a bit of

money, in fact the Province itself sends money to support it, and we consider that as a work of the Community of educating boys who cannot afford it, so that we do not demand them to pay as much as they would in another school. So this way, I help contribute to that, because we have tremendous expense.

Q. This school you're talking about, what is it?

A. St. John Kanty Prep in Erie, Pennsylvania.

HEARING OFFICER: What is the nature of that institution?

THE WITNESS: It is a college preparatory school for high school boys. We still have about twelve boys who board full-time, but the rest of them are day locals from Erie.

HEARING OFFICER: Do the boys that attend there, their families send them there or --

THE WITNESS: Yes. It is not a reformatory.

HEARING OFFICER: No.

THE WITNESS: One of the bishops thought it was, too.

HEARING OFFICER: Proceed, Mr. Randazzo.

Q. (By Mr. Randazzo) Now, you have testified that you sign a contract.

A. Yes.

Q. You have also testified about being transferred.

A. Transferred.

Q. As to the possibility of being transferred.

A. Okay.

Q. The Hearing Officer asked you questions.

A. I consider myself belonging to Erie. I am just here.

Q. Now, you are under contract to Niagara University for a period of time?

A. Yes.

Q. And now, the Hearing Officer asked you whether, whether or not if you were directed to transfer someplace, whether or not, you know, how you would view that in terms of your vow of obedience, and I'd like to have you explain, how you would handle or would you be directed to transfer in the face of a contract or commitment that you have undertaken to teach at the university for a year?

A. I presume that the, and I know for a fact that the Superiors will honor that particular contract for that time. I am assured of staying here for next year and -- well, I have to suspend that. I don't know exactly what we do after that.

Q. Now, you have testified, I think, that the first contract expired; you had a conversation with Father -- is it Kwolka?

A. Mrowka.

Q. Mrowka about teaching the next year. What was the nature of that; did you ask his permission to teach the following year? What was the nature of the conversation that took place?

A. As far as I remember, I think I approached him myself, "Should I teach next year?", and he asked me, do I like it, and I said "Yes" and he figured that the conditions were, you know, profitable for us so that, "Go ahead". It may be that he asked me first, because he had to make a decision about supplementing me, because it was a question of whether they'd hire a French teacher or teach German the following year.

Q. Where?

A. That was in Erie, so he wanted to check with me.

Q. Also, you testified that the vow you would take are the same vows that all Vincentians would take.

A. Yes, and the reason I hesitated there a little bit; the formation for that are different around the world. We discussed that while we were in Rome. But basically the way you will find it in the constitutions are the same, but the preparations are different.

Q. And as I understand your testimony, the vow of obedience would not apply to professional activity or activity you undertake in your capacity as an instructor?

A. That's right.

MR. RANDAZZO: I believe that's all I have. If I might have just about two minutes before you start.

HEARING OFFICER: Let's take five.

(Recess taken.)

HEARING OFFICER: Back on the record. Mr. Schmit?

MR. SCHMIT: Has Mr. Randazzo concluded?

MR. RANDAZZO: Yes.

CROSS EXAMINATION

Q. (By Mr. Schmit) Father, you testified you were ordained in 1947?

A. No, I was accepted in the Community in 1947. That means, when I first entered, and when they accept me. Because, before we used to count it from when we made our vows. Now, according to new regulations we count it from the day we are received in the Community.

Q. You were ordained sometime thereafter?

A. I was ordained in 1954.

Q. Where was that vow?

A. Northampton, Pennsylvania.

Q. Northampton, Pennsylvania?

A. Yes.

Q. Was, when you entered the Order, was that in Northampton, Pennsylvania, too?

A. At that time the Novitiate was Germantown. That

is where I entered the Order.

Q. That is 1947?

A. 1947.

Q. And where was the place that you were ordained?

A. Northampton. We were ordained right there at the Seminary. Bishop Carroll MacCormack.

Q. That province, in 1947 and 1954, was it the same?

A. At that time we were considered simply the Vice Province of Poland, then.

Q. We'll come back to that in a moment. But what, apart from the Vice Province of Poland, what Province would Germantown and Northampton be in, geographically?

A. At that time it was called the Eastern Province or Philadelphia.

Q. Do you use the term Philadelphia synonymously with Eastern Province?

A. Now, yes. Before they didn't use that idea of Philadelphia. But in Rome, that is the way we were identified.

Q. So, it is the Eastern Province?

A. Yes.

Q. Now, why -- would you explain to us what the Vice Province of Poland is? My understanding of it to be, a Community within a community in some fashion?

A. Originally, back in the early 1900's, they sent

men over here to help with the Polish speaking people. A few of our confers --

Q. They sent Vincentian priests over?

A. Yes.

Q. From?

A. Poland. Poland, one of the first Provinces established by St. Vincent in the 1600's.

Q. Go ahead.

A. So they established that way. In fact, our school in Erie was established in about 1912, I think, by some of the Fathers that came over.

Q. And the group of Fathers that originally came over from Poland, did they then establish an institution or Community at Germantown; is that how it works?

A. No, they were, you know, separate. They got a parish in, let's see, New Haven came first, New Haven, Connecticut, and then Derby, Connecticut. It was an offshoot of Derby, parish in Anzonia, where I was born, and about 1920, got a parish in Green Point in Brooklyn, New York.

Q. Brooklyn, New York?

A. Yes.

Q. And thereafter parishes in Pennsylvania; is that how it went?

A. We only have the one school in Pennsylvania.

Only one establishment.

Q. And that is what?

A. In Erie, Pennsylvania.

Q. That is St. John Kanty Prep School?

A. St. John Kanty Prep School.

Q. Was it the Vice Province of Poland that is at Germantown?

A. Knowing -- we just went there, because at the time Poland was not open to educate us. Maybe they could have still done it, after the war, but they, prior, when the war was, you know, actually being fought, our young men who were in Poland had to escape back to the United States and they resumed their studies at Northampton with the Eastern Province.

Q. Was it -- that is at Northampton?

A. Yes. That is a major seminary. That means they teach theology there now.

Q. Of the Eastern Province?

A. Yes, except now the directive of the Superior General is to consolidate so that we should not have our own formation set up; we would do it together.

Q. So that you would not have the Eastern Province formation?

A. The New England. That means we'll not have a Novitiate, except in the Apostolic School or for our

own seminaries.

Q. Is that a recent directive?

A. Yes.

Q. And you do not have one, I take it, as a separate Novitia?

A. That's correct.

Q. Is that correct?

A. That's correct.

Q. Prior to 1974, were the parishes that you mentioned in Connecticut and Brooklyn, New York, and St. John Kanty, Pennsylvania, all within the geographical territory of the Eastern Province?

A. Yes.

Q. And within the Order was there, prior to 1974, a separate entity known as the Vice Province of Poland in this country?

A. For practical purposes, yes. They were not really subject to Poland. In fact it was the other way around. We were supporting them, because formerly the Philadelphia Province would be an offshoot of that major Province, and the major Province supports them. Normally, it was just the reverse.

Q. With respect to this Vice Province of Poland that was in the United States, how was it governed? What would be the Superior?

A. We had a Vice Provincial.

Q. A Vice Provincial? Now, he is a Vice Provincial to whom?

A. To those men who belong to that Province.

Q. I mean, was there a Provincial to whom he reported?

A. The one from Poland.

Q. The one from Poland. What was the relationship, if any, of the Vice Provincial in the United States to the Provincial of the Eastern Province?

A. No relation. In other words, we fended for ourselves.

Q. Is the situation which you have described to us now, the way it existed up to 1974, basically?

A. Yes, except that, see, we started procedures, like for autonomy. That was for, like say, 1971.

Q. The procedures would be for autonomy from whom or for what?

A. So we could be a Province of our own, subject to no one.

Q. Separate from the Province in Poland?

A. Right. Because the Eastern Province would have liked to have swallowed us up.

Q. And am I assuming correctly that you did -- not you, but the Vice Province of Poland in the United States, did receive or obtain autonomy?

A. Yes.

Q. This would be --

A. This was promulgated last April. I forget the day; seventeen.

Q. Would that be April 1975 or 1974?

A. '75. That General Assembly was in 1974, at which all this matters was taken under consideration, but it was left to the Superior General to decide, and his council.

Q. Now, is it in April 1975 that the New England Province is created?

A. Inaugurated, yes.

Q. And does the New England Province, is it defined ina geographical sense?

A. Yes, it is Connecticut, Rhode Island, Massachusetts, Vermond, New Hampshire and Maine. Then the houses that we have presently in the territory of the Eastern Province or Philadelphia Province, that means Erie, Utica, White Stone -- we have a mission house -- I didn't tell -- I forget it exactly when that was established, in the early twenties, in Brooklyn. We are not allowed to expand in this territory, but we can keep what we have, and the other Province has some of their homes in our territory, like Springfield, and we have Miraculous Medal Missions there, too which

they can continue; that was our agreement.

Q. Now, there are -- at the present time there is a Provincial of the New England Province?

A. Yes.

Q. And that is the person to whom you are responsible in this country; is that correct?

A. Yes.

Q. Do the Vincentian priests in the New England Province follow the same rules or constitution as all other Vincentian priests?

A. We have things on different levels. The general constitutions and statutes and we have, we are still working on defining what we mean by the statutes, and then each of the Provinces has its own constitution that it sets up by its own Provincial assembly every three years. There, we would differ over things, and essentially we may be able to accord to our circumstances, which might be different from others. When you take that around the whole world, it may differ considerably with the style of life, you know.

Q. Do all the Vincentians, however, take the same fundamental vows?

A. Yes.

Q. That would be something in common with the group?

A. Yes.

Q. Had you ever met Father Martin before you called him on the telephone?

A. Have I -- I knew him more or less in passing, and from -- well, being in the same organization, although I hadn't known him that well at all.

Q. Had you ever been assigned with him anywheres?

A. Oh, no. I remember meeting him in Washington, that is down at the Catholic University, when I was working on my articles for the New Catholic Encyclopedia.

Q. Was he also working there, at the time?

A. I think he was studying there. He is younger than I am.

Q. Until your Superior, Father Mrowka, advised you of his conversation with Father Martin, had you been aware of any opening at Niagara University?

A. Not the slightest idea. That was like a bolt from the dark.

Q. And the first direct contact between yourself and Father Martin was initiated by your telephone call to him; is that correct?

A. Yes.

Q. Now, could you tell us the substance, or can you recall the substance of that telephone conversation?

A. Just, I mentioned to him that Father Chester had

told me about this and I said, I'd be willing, if you had a job for me; more or less like that.

Q. And what did he say?

A. He said, "Fine", because I think he was looking for someone.

Q. In effect, you were then hired in that initial phone conversation?

A. You got me. I don't know. It was at the time, in a sense, I figured that was it.

Q. Did he request that you forward him a resume or anything like that?

A. I think he was aware of my, you know, my credentials.

Q. And he didn't ask you, though, for a resume or your credentials?

A. No, I think he knew that I had written these articles for the Catholic Biblical -- rather, New Catholic Encyclopedia, and I had been writing regular reviews for the Catholic Biblical Quarterly.

Q. Did he call you or ask you to come to Niagara University for an interview of any kind?

A. No.

Q. I believe you said that you commenced there in January, 1975; is that correct?

A. Yes, that semester began September 20th or some-

thing.

Q. And did you report on or about the commencement of teaching or commencement of the semester?

A. Reported there on Sunday evening and we started the next day.

Q. That was your first time at Niagara University?

A. I had been to Niagara for a visit, maybe, I think just before I left for Rome in 1956, perhaps. I haven't been there since.

Q. 1956?

A. Yes.

Q. And what position, faculty position did you receive when you started teaching there? What was your rank?

A. I don't really know, to be honest.

Q. I'm not sure, but I think ascending order you have instructor, Assistant Professor, Associate Professor and Professor; am I correct in that?

A. Yes.

Q. Do you know which of those four?

A. I'd say I don't know.

Q. Did you ever find out?

A. The only time I find it is when they are making up a brochure, they have, or they have a telephone number, addresses and stuff. I had to fill out a little form.

I asked Father Martin what should I put down for this. He told me, "Associate Professor".

Q. And that would be the second highest ranking?

A. Yes. Well, the new catalog has me down as Professor.

Q. The new catalog does?

A. Yes.

Q. That would be for the '75-'76 year?

A. No, 76-77.

Q. Had you had faculty rank at any other universities prior to going to Niagara University?

A. Never in a university. I have never, you know, associated with one.

Q. What is your --

A. Oh, excuse me. I taught part-time at Gannon College. It would be 1962-63, I think, and then the following semester, I think I taught in a continuing education field.

Q. As a part-time teacher at Gannon, did you have faculty rank?

A. I don't even know.

Q. You don't know?

A. Instructor, I imagine. I don't know.

Q. Then, you had teaching experience, I take it, at St. John Kanty Prep?

A. Oh, yes, I had been teaching -- well, if you included two years of study in Rome; I had taught 18 years, I guess.

Q. Father Lachowski, would it be usual or unusual to hire a new faculty member with your background as an Associate Professor; do you know?

A. I don't really know. Maybe you would say, you know, unusual, unless they figured I had done things.

Q. You received a, I believe, you testified, a new contract in the spring of 1975?

A. No, I didn't. I didn't say that.

Q. I'm sorry. Then, what did happen?

A. When I came in September I was handed one and I signed it.

Q. When you came in January of 1975, when you first went to Niagara, you received a contract; you testified to that?

A. After a couple of days, yes.

Q. After a couple of days; that was for one semester?

A. That semester, because I had a sabbatical. I was free to do -- not exactly what I chose.

Q. You had some time on the sabbatical?

A. Right.

Q. That semester, that January, 1975 semester began to come to a conclusion; did you receive a new contract

in the mail, that was described earlier?

A. That is, yes, I believe that Father Chester Mrowka wanted to find out about it because he wanted to set up the schedule for the teaching at St. John Kanty Prep. This was in the spring of 1975.

Q. You and Father Mrowka spoke to one another about that matter?

A. Yes.

Q. You have already testified to that conversation?

A. Yes.

Q. Now, did you then contact Father Martin?

A. I just told him I could teach next year.

Q. Had he previously asked you whether or not you cou[illegible]?

A. No, he took it for granted I was not able.

Q. He took it for granted you were not able?

A. Yes, because he had an idea that semester; that was about it.

Q. Was it the spring of 1975 that you told him you were available?

A. Yes.

Q. What did he say?

A. Said, "Fine. We'd be glad to have you.".

Q. Did you receive a contract?

A. No. I said no.

Q. You didn't get it until September of 1975?

A. Yes.

Q. That was the contract for the next academic year, full year?

A. That is the one I have.

Q. That is the one you are presently under?

A. Yes.

Q. Could Father Mrowka, in the spring of 1975, could he have instructed you, Father Lachowski, to come back to St. John Kanty Prep?

A. I think you have to say, "Yes". I mean, theoretically, yes, if he wanted to; but he didn't do it that way.

Q. If he had wanted to, and had done it that way; you would have gone back to St. John Kanty Prep?

A. I'd have to say, theoretically.

Q. You would have to say theoretically, what?

A. Yes, because the rules now are not written that way. That is, the Superior is supposed to consult the subject, if you want to use those terms.

Q. You testified in that regard, that there was a requirement of consultation; is that correct?

A. Yes.

Q. Consultation doesn't mean vote or agreement, does it?

A. No.

Q. You could have a consultation with the Superior and he still tell you to do something, couldn't he?

A. Yes.

Q. And you'd have to do it after consultation?

A. Except that nowadays, we vote our men in.

Q. Does that mean that the members of the Community elect its Superiors?

A. Well, right now, see, what happens onthis provincial level, you set up your own guidelines, as it were, these statutes, and say, in the last, the first three years that we had it, that is what we did. The second three years we changed it around a little.

Q. Changed it around to what?

A. So that it was more of a consultation.

Q. Yes.

A. But, every confer is consulted and that is written up in the statutes.

Q. The term "confer", does that refer to a member of the Community of Vincentians?

A. That means either a Father or Brother.

Q. What is your relationship with Father O'Keefe, the Superior of the Vincentian Community at Niagara?

A. He would be my Acting Superior, while I am at Meade Hall. If I go to Erie, Father Seledziona is my

Superior, but the understanding is that it is only he who has any authority over me, whereas like Father Nugent --

Q. Who has this authority?

A. Would not have this authority over me, but Father Szumilo, the one Father in the and the New England Province -- oh, Father O'Keefe is subject to Father Nugent.

Q. Does Father O'Keefe have authority over you?

A. At this moment, yes.

Q. While you are at Niagara University?

A. (No response)

Q. You have to verbalize, because that is the only thing that he can take down.

A. Yes.

Q. Father O'Keefe's Superior, Father Nugent, is not in your chain of command, if you will?

A. That's right.

Q. So at the Provincial level, New England, but at the Local level, at this time, it is Father O'Keefe who is of the Eastern Province?

A. Yes.

HEARING OFFICER: Does the record reflect who Father Nugent is?

MR. SCHMIT: The earlier record does, Mr. Hearing

Officer. Father Nugent is, as I recall, the Provincial of the Eastern Province of the Congregation of the Mission.

HEARING OFFICER: All right.

MR. SCHMIT: And the prior record also reflects that Father O'Keefe's position is Superior of the Community at Niagara University.

HEARING OFFICER: Thank you.

Q. (By Mr. Schmit) Could Father O'Keefe prohibit you from joining a labor organization?

A. As far as I know; no.

Q. What is the source of that knowledge?

A. I guess you have to say, practice; I don't know.

Q. Has it ever happened?

A. Not that I know of.

Q. Did you ever ask him?

A. Yes.

Q. And why did you ask him; what would be the purpose of asking him?

A. Just what his mind was.

Q. What his mind was; it would make a difference what his mind was?

A. Being, you mean, in actual --

Q. In fact, would it make a difference what his mind was on that subject?

A. I would say no, in conscience.
Q. What does that mean?
A. That means, that I would have the right to choose something of that nature and he would not have the right over me, and command me to do something at that particular level, because that is not under the vow of obedience.
Q. Would the Provincial of New England Province have the authority?
A. The reasoning would have to be the same.
Q. You testified, Father Lachowski, that your salary check was endorsed and transmitted to your Community in Erie, Pennsylvania?
A. Yes.
Q. And from that Community you received an allowance; is that correct?
A. Yes.
Q. Do you know whether or not your Community in Erie, Pennsylvania, remits any monies to the Community at Niagara University in compensation for the support that that Community provides you?
A. Could you rephrase that question?
Q. Does Erie, Pennsylvania Community pay anything to Niagara University Community?
A. Absolutely not.

Q. They do not?
A. Yes.
Q. Your meals and lodging, as you have testified, are provided by the Community at Niagara University?
A. Yes.
Q. And they are not reimbursed for those services or supplies by the Community at Erie, Pennsylvania?
A. That's correct.
Q. And it is the Community at Erie, Pennsylvania, to which you forward your salary check?
A. Yes.
Q. And you receive from that Community a thirty dollar living allowance; is that correct?
A. That is like pin money.
Q. Personal allowance?
A. Right.
Q. Is that a better word?
A. Right.
Q. I think you talked about a shirt, before; what about a new suit, what if you needed an entire new suit?
A. I think I would have to ask the people in Erie for it.
Q. You think you would go to them?
A. Yes.
Q. And then they'd provide it for you?

A. Yes.

Q. I think yo u testified that you were certain that you were not in the retirement program at Niagara University; is that correct?

A. Yes.

Q. Are you in a different retirement program?

A. Whatever we have set up in our own province, yes, that would be. We have a fund, like, something like what Sister mentioned, which we operated, not together with Social Security.

Q. Something you set up?

A. Yes.

Q. Where is the New England Provincial located?

A. Presently, in New Haven, Connecticut.

Q. What is the vow of stability?

A. That is the idea of remaining in a community serving the poor.

Q. Does it have any significance with respect to the other members of the community?

A. No.

Q. Your confers?

A. Just the idea that we want to live together.

Q. You stay together?

A. Yes.

Q. Does it imply that you will stay together in

harmony?

A. Presumably.

Q. You testified that there were no deductions on your salary check; is that correct?

A. Yes.

Q. Do you know whether or not you are covered, then, by the group medical plan at Niagara University?

A. I am not covered by anything like that. As I say, I am covered in Erie.

Q. Do you know the nature of that plan in Erie, Pennsylvania; is it Blue Cross or Blue Shield or whatever?

A. Blue Cross and Blue Shield.

Q. Who pays for that coverage?

A. The Vincentian Fathers of Erie.

Q. Do you have any life insurance, Father Lachowski?

A. (No response)

Q. Life insurance?

A. Frankly, no. I think my sister may have something on me.

Q. Your contract, present contract is going to expire in the spring of this year, end of this semester?

A. Yes.

Q. And have you had any conferences with your Superiors with respect to staying or leaving Niagara

University?

A. I checked with Father Seledziona with regard to the summer session and the following year.

Q. Who was the priest that you mentioned?

A. The present Superior, Father Seledziona.

Q. Is he a Provincial Superior?

A. No, Superior in Erie, now. The one that took the place of Father Mrowka, whose term ended in January, the end of January.

Q. You already consulted with him?

A. Yes.

Q. What was the nature of that conversation; what resulted from it?

A. He asked me, would I like -- he thought it would be good for relations, intra-Provincial relations.

Q. You will be staying?

A. Yes.

Q. Could your Superior in Pennsylvania had, this year, said "Come back to Pennsylvania"?

A. Sure, he could have.

MR. SCHMIT: I have no further questions. Thank you, Father.

HEARING OFFICER: Mr. Randazzo?

MR. RANDAZZO: Maybe one or two.

RECROSS EXAMINATION

Q. (By Mr. Randazzo) If you would, Father; I don't believe the record reflects, but could you give an idea of what your academic background is?

A. Well, I was ordained from Northampton to Merrimac Seminary in Northampton. At the time they did not give the degrees. After ordination, I went to Gannon College and obtained my Bachelor in Philosophy Degree from Gannon College. I think I am listed as completing, in 1957, although it was '56 when I finished. At that time the Provincial asked me to go and study in Rome, and I took my doctorate in the Angelican University in Rome in 1958. I took my dissertation, had it printed there. It was submitted, completed in July, end of July of '58. And then I had attended -- well, the Institute of Spiritual Theology in River Forest for three summers and then after that I went to Penn State in the summer of '66 for biochemistry and genetics, and another subject, I forget at the moment. The following year I went to the University of Southern California for some Geology, and Earth Science Institute the summer after that. I went to the University of Portland in Oregon for some chemistry and physics and the following summer -- our Sister Gilman is not aware of it, but I am aware of it -- the following

summer I went to Yale University for French. The summer after that -- that would be maybe '-- let's see, 1971, went to the University of Georgetown, to Dejeune, to study some more French. The summer after that I took a break. I think I wasn't eligible for another institute. The summer after that I went to the University of Iowa for some more biology.

Q. Have you had -- just give us an idea of the works you have had published, if any?

A. I had eight articles for the New Catholic Encyclopedia. The largest was 6,100 word article on sin in the Bible and I have been doing book reviews for the Catholic Biblical Quarterly at least one or two a year for the last 16 years.

MR. RANDAZZO: That's all.

HEARING OFFICER: Mr. Schmit?

MR. SCHMIT: Nothing more.

HEARING OFFICER: Just a question or two.

EXAMINATION

Q. (By the Hearing Officer) Father Lachowski, when you were speaking about the rules, and the Eastern Province versus the New England Province, you're speaking of a general constitution?

A. Yes.

Q. Now, what is that and who does it apply to? Is it

overall, both Provinces?

A. The general norms apply to the whole world and they are general ones, so that the other provinces on their own level, you know, within the context we are supposed to make them more particular for their own situation.

Q. The general norms, are they also referred to as the constitutions; is that what you were saying?

A. Yes.

Q. Are those Vincentian Order norms?

A. The Congregation of the Mission. They are presently under, like a revision. They'll be gone over again, like in 1980. This is what the Holy See says, there'll be another revision.

Q. With respect to the Provinces, you stated that the various Provinces have their own statutes?

A. Yes.

Q. Do the statutes, do they in any way modify or alter the general norm?

A. No, they have to conform within the general norm.

HEARING OFFICER: Anyone have any questions in response to my question or two?

MR. SCHMIT: I do not.

MR. RANDAZZO: That is all I have. Nothing else.

HEARING OFFICER: Thank you, Father Lachowski.